

AGENDA ITEM 92

Report of the United Nations Commission on International Trade Law on the work of its sixth session (continued) (A/9017, A/C.6/L.901, A/C.6/L.952)

45. Mr. SAM (Ghana) said that the sponsors of the draft resolution A/C.6/L.952 concerning the report

of the United Nations Commission on International Trade Law were continuing their negotiations with the Argentine delegation. Since that delegation seemed prepared to agree to the proposals which had been submitted to it, the final text of the draft resolution should be ready in time for the next meeting.

The meeting rose at 5 p.m.

1440th meeting

Friday, 16 November 1973, at 11.05 a.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1440

AGENDA ITEM 92

Report of the United Nations Commission on International Trade Law on the work of its sixth session (continued) (A/9017, A/C.6/L.901, A/C.6/L.952/Rev.1)

1. Mr. SAM (Ghana), introducing draft resolution A/C.6/L.952/Rev.1, said that following the discussion of the original draft, about which various proposals had been submitted, consultations had been held with those primarily concerned, especially the delegation of Argentina, which had proposed the inclusion of an additional paragraph concerning multilateral enterprises. As a result, the revised draft resolution contained a new paragraph 6 (b), which recommended that the United Nations Commission on International Trade Law should continue to consider the legal problems presented by different kinds of multinational enterprises. That would show the Commission at its next session the importance which the Committee attached to the question of multilateral enterprises. He assured the Latin American delegations that the sponsors' original position concerning the results of work being carried on by other bodies in that field was well founded, but said that in a spirit of compromise they had agreed to omit any reference to such work.

2. A representative of the United States had in a recent address referred to the importance of multinational corporations, and to the study on that subject being undertaken at the United Nations by a group of 20 eminent persons. In that address he had mentioned the United Nations finding that over the past 20 years multinational operations had surpassed all other forms of international trade as a mechanism for the exchange of goods, services and technology. The sponsors had originally hoped that the Commission would look into the question of multinational corporations and examine the results of investigations carried out by other bodies, but they believed that the new paragraph 6 (b) would enable the Commission to pursue its work in that connexion.

3. At the request of the Australian delegation, paragraph 8 (a) had been amended to read "The six additional members of the Commission shall be elected by the General Assembly for a term of six years, except as provided in subparagraph (c) below." He expressed

the hope that the Committee would be able to reach a unanimous consensus on the draft resolution.

4. Mr. AL-SABAH (Kuwait) said that the Asian group had misgivings about the proposed increase in the membership of the Commission. He had carefully considered the reasons given by the sponsors of draft resolution A/C.6/L.952/Rev.1 in favour of such an increase, but was not convinced by their explanations. The Asian group did not think that an increase in the membership would enhance the effectiveness of its work, but having considered the positions of the many groups concerned and the wishes of the members of the Commission, it agreed to go along with the proposed increase, and hoped that the work of the Commission would thereby be improved.

5. He considered that the distribution of seats proposed in the draft resolution was inequitable. Two additional seats were allotted to Africa, while Asia, Eastern Europe and Latin America each received one additional seat. However, although there were 35 countries in the Asian group and 24 in the Latin American group, those two groups had the same number of seats in the Commission. His delegation therefore proposed that paragraph 8 of the draft resolution should be amended to read as follows:

"8. *Decides* to increase the membership of the United Nations Commission on International Trade Law from twenty-nine to thirty-six in accordance with the following rules:

"(a) The seven additional members of the Commission shall be elected by the General Assembly for a term of six years, except as provided in subparagraph (c) below;

"(b) In electing the additional members, the General Assembly shall observe the following distribution of seats:

"(i) Two from African States;

"(ii) Two from Asian States;

"(iii) One from Eastern European States;

"(iv) One from Latin American States;

"(v) One from Western European and other States;

"(c) Of the additional members elected at the first election, to be held during the current session

of the General Assembly, the terms of three members shall expire at the end of three years; the President of the General Assembly shall, by drawing lots, select these members as follows:

- “(i) One from those elected from African States;
- “(ii) One from those elected from Asian States;
- “(iii) One from those elected from the other regions;”

Subparagraphs (d) and (e) would remain unchanged.

6. Mr. SAM (Ghana) said that he had no strong views concerning the amendment of the representative of Kuwait, but observed that in preparing the draft resolution the sponsors had been guided by precedents. The Special Committee on the Question of Defining Aggression had 35 members, and the *Ad Hoc* Committee on International Terrorism established in 1972 also had 35 members. The number of 35 had been adopted because it was easy to apportion it in proportion to the membership of the Security Council. In the Special Committee on the Question of Defining Aggression 8 seats had been allotted to Africa, 6 to Asia, 6 to Latin America, 5 to Eastern Europe and 10 to Western Europe and other States. The distribution of seats in the Commission, with a membership of 29, had been the following: 7 to Africa, 5 to Asia, 5 to Latin America, 4 to Eastern Europe and 8 to Western European and other States. In both the Commission and the Special Committee on the Question of Defining Aggression, the Asian States and the Latin American States had had the same number of seats. Moreover, the amendment of the representative of Kuwait would create difficulties in connexion with paragraph 8 (c) of the draft resolution, because the addition of 7 members would make it impossible for the President of the General Assembly to follow the usual practice of appointing one half of the members for a three-year period and another half for six years. He also found the amendment somewhat surprising, since he had been assured by some Asian representatives that it was unnecessary to increase the membership of the Commission because no additional Asian members were available to sit on it. He therefore thought that it would be best to retain the membership of 35 so as not to upset the balance achieved in the Special Committee on the Question of Defining Aggression and the previous apportionment of the Commission, as well as to avoid setting off a chain reaction of attempts to alter the composition of such bodies.

7. Mr. KOLESNIK (Union of Soviet Socialist Republics) supported the views expressed by the representative of Ghana.

8. Mr. NJENGA (Kenya) expressed surprise at the views of the representative of Ghana. The Western European and other States had been allotted 8 out of 29 seats on the Commission, which gave it the largest number of any geographical group. However, if the principle of equitable geographical distribution had been strictly followed, the Western European and other States would not have had more seats than Asia or Africa. Moreover, in the new apportionment the Western European and other States were to receive

an additional seat, while Latin America and Asia would each have 6 seats. The Committee should not consider itself bound by existing numerical precedents. A similar situation had arisen during the discussion of the distribution of seats on the *Ad Hoc* Committee on International Terrorism at the twenty-seventh session, and the African group had opposed the proposed distribution of seats. It was only fair that the African group should therefore support the Asian request on the current occasion.

9. Mr. BRIN MARTINEZ (Panama) said that the adoption of the proposal of the Asian group would upset the balance of the membership of the Commission and encourage other groups to attempt to increase their own representation. His delegation therefore preferred the distribution of seats proposed in the draft resolution.

10. Mr. YASSEEN (Iraq) thanked the representative of Kenya for supporting the proposal of the Asian group, and said that there might be some disagreement concerning the desirability of increasing the number of members of a commission but that could in no way prejudice the question of geographical distribution in the commission, which was an entirely different matter. He wondered whether the representative of Ghana knew of any United Nations body in which the Asian group had only 6 representatives out of 35.

11. Mr. SAM (Ghana) said that the Special Committee on the Question of Defining Aggression, which he had mentioned earlier, had 35 members, only 6 of which were from Asian States.

12. Mr. YASSEEN (Iraq) said that the example cited by the representative of Ghana was the exception that proved the rule. Given the particular nature of the Special Committee on the Question of Defining Aggression, geographical distribution in that Committee was not the same as that applying in all other organs, including the Commission.

13. The CHAIRMAN said that in view of the conflicting opinions on the amendment proposed by the representative of Kuwait, it did not seem possible to proceed to a vote on the draft resolution at the current meeting. He therefore suggested that the sponsors should consult with each geographical group in order to find a solution to the difficulty.

14. Mr. SAM (Ghana) wished to make it clear that his delegation was not opposed to increasing the membership of the Commission to 36. His only concern had been to explain the basis on which the sponsors had done their work. However, to expedite matters, he felt that the Committee should decide at its current meeting whether to keep the figure of 35 or increase it to 36.

15. Mr. YANAI (Japan) endorsed the amendment of the representative of Kuwait and the comments made by the representative of Iraq, and said that in view of the divergence of views, the Committee should postpone its decision so that the regional groups might hold consultations on the matter.

16. The CHAIRMAN said that the interests of other geographical groups might be prejudiced if the Kuwaiti

amendment were adopted as it stood, and that it would therefore be preferable to hold consultations with all those concerned before taking a final decision.

17. Mr. AL-SABAH (Kuwait) thanked the representative of Kenya for supporting his amendment. With reference to the representative of Ghana's statement to the effect that the Committee should come to a conclusion at its current meeting on the number of members to be added to the Commission, he said that that was not the main problem; the key issue was equitable geographical distribution. If there was some way to accommodate the Asian group with only 35 members, it would be most welcome.

18. Mr. MAÏGA (Mali) supported the Chairman's suggestion that the various groups concerned should hold consultations and try to find a solution to the problem of equitable geographical distribution, and said that since Ghana and Kenya were sponsors of the draft resolution, it would be desirable for them to come to an agreement between themselves before consulting with the regional groups.

19. Mr. ESSONGUE (Gabon) expressed the hope that the request of the Asian group would be granted, and endorsed the Chairman's suggestion that the various groups should hold consultations on the matter.

20. The CHAIRMAN said that if he heard no objections he would assume that the Committee endorsed his suggestion, and on that assumption requested all the groups concerned to designate a representative to meet with the sponsors of the draft resolution in order to discuss the matter.

AGENDA ITEM 95

Report of the Special Committee on the Question of Defining Aggression (*continued*) (A/9019)

21. Mrs. SLÁMOVÁ (Czechoslovakia) expressed her delegation's appreciation of the introduction of the Report of the Special Committee on the Question of Defining Aggression (A/9019) by the Rapporteur of that body and of the outstanding efforts of all its officers, especially the Chairman of the Working Group and of the four contact groups established by the Working Group, which had resulted in substantial progress in the Special Committee's work. For the first time, the Special Committee had succeeded in passing from the three draft definitions to a consolidated text, although there were still a number of reservations and amendments to that text. All the members of the Special Committee were to be congratulated on their determination to reach a generally acceptable formulation on the basis of a reasonable compromise. The adoption of such an acceptable definition would indeed contribute significantly to the maintenance and strengthening of international peace and security.

22. As a member of the Special Committee, Czechoslovakia had had ample opportunity to discuss and submit amendments to all the provisions of the definition, and its views on the subject were well known in the Sixth Committee. Nevertheless, she wished to dwell on several aspects of the consolidated text (*ibid.*, annex II, appendix A). It was most gratifying that the preamble, which was of great legal sig-

nificance and was an integral part of the draft definition, had been approved practically unanimously.

23. Although article 1 on the general definition of aggression still contained some words in brackets, it could be concluded that points of view were converging, because the text was currently based on Article 2, paragraph 4, of the charter of the United Nations. However, her delegation considered that the words in brackets, "however exerted", should be deleted, since certain acts which constituted breaches of international peace would not necessarily be acts of aggression. Nor could her delegation agree to the inclusion in the definition of the words "group of States", referred to in clause (b) of the explanatory note to article 1, since the introduction of the concept of a collective aggressor would weaken the principle of the individual responsibility of the aggressor State.

24. The Czechoslovak delegation to the Special Committee had tried to promote the solution of the thorny problem of priority and aggressive intent by submitting in 1972 a text¹ which both took into account the powers of the Security Council, under Chapter VII of the Charter, to determine whether an attack had taken place and allowed for the effective application of the definition of aggression. That text was based on the presumption of the guilt of a State which had committed one of the acts set out in the definition, but allowed that State to defend its actions before the Security Council and world public opinion and to explain that it had not attacked first, but had acted in self-defence or in some other way admissible under the Charter. Her delegation believed that that concept of the refutability of presumption of guilt might serve as a basis for an acceptable compromise.

25. Article 3 seemed to be generally satisfactory, although some aspects of it needed further consideration, particularly subparagraph (f) concerning the responsibility of a State making its territory available for the perpetration of an act of aggression. Article 4 was also acceptable.

26. Article 5, to which her delegation attached great importance, was a synthesis of several drafts. A vital point to bear in mind was that the principle of self-determination as set out in the Charter established the principle of equal rights not only with regard to States, but also with regard to nations. The Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV), annex) also included the principle of equal rights and self-determination of peoples among the principles of international law regarded as primordial for peaceful co-existence. Since colonialism was a denial of that principle and therefore constituted a violation of the Charter, the struggle against colonialism and colonialist methods was legitimate and the use of force in that struggle was legal, as was assistance to forces combating colonialism. From that point of view, article 5 might be regarded as a realistic basis for the solution of key problems of the definition.

¹ See *Official Records of the General Assembly, Twenty-seventh Session, supplement No.19*, annex II, appendix B, sect. D.

27. The Special Committee had unfortunately been unable to reach an acceptable compromise on article 6, concerning the legal consequences of aggression, and especially on the first paragraph, for which five variants had been proposed. Her delegation unequivocally considered that aggression constituted a crime against international peace giving rise to responsibility under international law.

28. There could be no doubt that at present, developments in international relations were characterized by a trend towards the relaxation of international tensions and the establishment of more favourable conditions for international co-operation in all spheres. That positive trend would be greatly enhanced if a generally acceptable definition of aggression could be reached. Czechoslovakia had always believed that the preparation of such a text was not only essential, but possible and had been confirmed in that belief by the positive results reached by the Special Committee at its sixth session. Accordingly, bearing in mind that certain provisions of the definition still had to be made final, it had co-sponsored a draft resolution, adopted unanimously by the Special Committee (see A/9019, para.14), recommending that the General Assembly should invite that Committee to resume its work in 1974. It also supported that recommendation in the Sixth Committee.

29. Mr. BROMS (Finland) said that, although his delegation had been somewhat disappointed by the Special Committee's failure to reach a final consensus after much hard work in a constructive atmosphere, it welcomed the fact that a draft definition consisting of an elaborate preamble and seven articles had been produced for the first time. Moreover, the draft contained only two sets of brackets. The comments in the reports of the contact groups and the Working Group showed, however, that consensus had not been reached on a number of issues. When it had become plain that a generally acceptable draft could not be agreed upon, several members of the Working Group had felt that they should indicate all the points on which their opinions differed from the draft definition, although they had earlier indicated a general willingness not to press some detailed proposals if an over-all acceptable solution could be found. In addition, many of the existing reservations had been made by one member only, and several concerned relatively minor matters.

30. Turning to the material issues, he said that, although the preamble seemed to have been generally accepted by the Special Committee, some of its paragraphs might need slight revision, particularly if that Committee decided to solve minor differences of opinion by inserting provisions on the issues concerned in the preamble.

31. Article 1 also seemed to be acceptable, on the understanding that the solution of the problem of whether to insert the words "however exerted" would depend on the final content of the definition. The phrase "inconsistent with the Charter of the United Nations" had the merit of being concise, and the proposals made in the first contact group to refer to the "principles and purposes" or the "principles and pro-

visions" of the Charter did not seem to add to the clarity of the article.

32. No general agreement had been reached in the third contact group on article 2, concerning questions of priority and aggressive intent. In addition to differences on drafting points, there had been a minor argument on whether the words "in contravention of the Charter" should be replaced by "as set out in this definition"; that difference could be settled either way, since the main argument against the substitute phrase, that no reference should be made to the definition itself, could not be regarded as legally decisive. The principal difficulty was that whereas many members wished the article to end with the word "circumstances", several others wanted to include an express reference to the purposes of the States involved, as partial evidence. His delegation did not consider that reference to be absolutely necessary, since the purposes in question were covered by the words "other relevant circumstances"; but even if the proposed phrase was included in the final definition, the article would be a well-balanced provision, based on a reasonable compromise to which both sides had contributed.

33. The near-consensus on the list of acts proposed for inclusion in article 3 was largely due to the consensus on article 4, concerning the non-exhaustive character of the list and the clause on minor incidents. The main difficulty with regard to article 3 seemed to lie in the final words of subparagraph (g), "or its open and active participation therein". It had also been proposed that the subparagraph in question should form a separate article, in order to stress the importance of aggression by sending armed bands, groups, irregulars or mercenaries to carry out serious acts of armed force; in any case, it was clear that the concluding phrase was a political, rather than a legal, evaluation and that the problem would probably give rise to difficulties.

34. No general agreement had been reached on the wording of article 5, concerning the right of peoples to self-determination. Similar differences of opinion had emerged during the Sixth Committee's recent debate on the draft convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons; yet his delegation considered that the difficulty should not be insurmountable where the definition of aggression was concerned. The Special Committee should try to agree on a carefully worded and well-balanced provision, perhaps based on the corresponding clause of the Declaration on Friendly Relations. It should also be noted that there had been a proposal to include that provision in the preamble.

35. The main difficulty with regard to article 6 on the legal consequences of aggression was whether aggression was to be characterized as a grave violation, a crime or a criminal violation against international peace giving rise to responsibility under international law. His delegation could not agree with the view, expressed in the contact group concerned, that the Special Committee was not competent to make the necessary assessment; it believed that once that Committee reached a consensus on the rest of the defini-

tion, it would no longer be so difficult to describe the gravity of an act of aggression.

36. The addition of article 7, on legal uses of force, including the question of centralization, was still under discussion. At the current stage, it would seem that if the Special Committee decided to include such a provision, its contents could easily be agreed upon in the light of the discussions already held.

37. Although all the elements for an acceptable definition of aggression already existed, the task ahead was by no means easy, and there were several pitfalls to be avoided. It was to be hoped that the debate in the Sixth Committee would be as constructive and non-polemical as that of the Special Committee at its sixth session and that that body would be allowed to continue its work in 1974.

38. Mr. GÜNEY (Turkey) paid a tribute to Mr. Broms, the Chairman of the Working Group and of the contact groups for his efficient and wise conduct of the work of those bodies. The fact that the Special Committee had been able to produce a consolidated draft definition consisting of a preamble and seven articles 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. It was to be hoped that the Special Committee would take that experience into account in the future.

39. The Special Committee's report gave grounds for optimism as to the final drafting of a generally acceptable definition of aggression. The questions of indirect aggression and of priority and aggressive intent had been the Special Committee's central preoccupations at its sixth session. As a member of that body, his delegation had always stressed the need for a comprehensive definition, taking into account indirect aggression reaching proportions which almost placed it on the same footing as conventional direct aggression, as well as the principle of priority and aggressive intent. It therefore welcomed the progress made with regard to those two extremely important points and the spirit of compromise that had led the proponents of defining direct aggression and the principle of priority to accept the inclusion of a reference to indirect aggression and aggressive intent in the definition. It was regrettable that final agreement had not been reached on the provisions in question, although such agreement had seemed very near in the contact groups.

40. The scope of the provision on the right of peoples to self-determination and its place in the definition were other important outstanding questions, but there was reason to hope that agreement on them would be reached at the Special Committee's next session. On the other hand, the problem of legal uses of force, including centralization, had been satisfactorily solved by a simple reference to the Charter of the United Nations, and the acceptance of the preamble and of the idea of the non-exhaustive character of the definition represented further achievements.

41. His delegation considered that the progress made by the Special Committee at its latest session fully justified the renewal of its mandate. Turkey would

therefore support any draft resolution which would allow that Committee to continue its work of finalizing a definition of aggression which would be in conformity with the provisions of the Charter and would serve to strengthen the organs responsible for the maintenance of international peace and security.

42. Mrs. ULYANOVA (Ukrainian Soviet Socialist Republic) said that the report of the Special Committee testified to the considerable progress it had made at its last session, at which for the first time agreement had been reached on a preliminary draft of the full definition. The consolidated text of the reports of the contact groups and the drafting group, in annex II, appendix A, of the report of the Special Committee, provided a basis for further work towards a generally acceptable definition of aggression. The Special Committee was to be commended for reaching agreement or a *rapprochement* of views on a number of important questions, such as that of priority and aggressive intent, indirect aggression, the right of peoples to self-determination, the provision on the non-exhaustive character of the list of acts of aggression and the right of the Security Council to determine other acts as constituting aggression under the provisions of the Charter.

43. Many years of effort had been expended on defining aggression not only because of the complexity and inherent difficulty of the subject but also because of attempts that had been made to complicate and retard the progress of that work. At its sixth session the Special Committee had taken a more constructive approach and had displayed greater willingness to seek compromise solutions. The positions of delegations had been made clearer, thus giving grounds for optimism regarding the prospects for the successful completion of the Special Committee's work.

44. The need for a definition of aggression, as an important means of strengthening peace and security, was being increasingly appreciated. It had been recognized in a number of General Assembly resolutions and quite recently had been confirmed anew at the World Congress of Peace Forces held in Moscow. In his address to the Congress the General Secretary of the Communist Party of the Soviet Union, Leonid Brezhnev, had noted that the concerted efforts of lovers of peace throughout the world had succeeded in bringing about a reduction of tensions in important spheres of international relations; he had stressed the growing concern and active opposition of the peoples of the world to acts of aggression and force. The communiqué issued by the Congress highlighted the need to create guarantees for the strengthening of peace and security. An important step in that direction would be the adoption of a generally accepted definition of aggression, which would serve to enhance the effectiveness of the United Nations in the fulfilment of its primary purpose.

45. Commenting on the consolidated text, she emphasized the importance of the fifth preambular paragraph, which stated that aggression was the most serious and dangerous form of the illegal use of force, being fraught with the possible threat of a world conflict with all its catastrophic consequences and also of the eighth preambular paragraph, which stated that

the adoption of a definition of aggression 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 also facilitate the protection of the lawful rights and interests of the victim and the rendering of assistance to the victim. The preamble also quite correctly pointed out, in the second paragraph, that under Article 39 of the Charter the Security Council had the responsibility of determining the existence of any threat to the peace, breach of the peace or act of aggression and of making recommendations or deciding what measures should be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.

46. The general definition of aggression set forth in article 1 was, on the whole, responsive to contemporary requirements and in keeping with the Charter of the United Nations. However, her delegation had seriously doubted the desirability of including the words in brackets in the general definition.

47. With regard to the questions of priority and aggressive intent—the subject of article 2—she pointed out that the existing formulation was a compromise between the partisans of the principle of priority and those who deemed it necessary for the Security Council to take into consideration the purposes of the States involved in determining whether an act of aggression had occurred.

48. The formulations in article 3 as a whole were satisfactory, but further work would be necessary in order to reconcile divergent points of view.

49. Article 4 correctly pointed out that the acts enumerated in article 3 were not exhaustive and that the Security Council could determine other acts as constituting aggression under the provisions of the Charter.

50. With regard to article 5, she recalled that her delegation had on numerous occasions emphasized the desirability of including an article confirming the right of peoples to use armed force in their struggle to realize their right to self-determination against colonial oppression. That right was entirely consistent with the Charter and the fundamental purposes of the United Nations.

51. As the report showed, partial agreement had been reached on article 6 concerning the legal consequences of aggression. The differences of opinion related to the recognition of aggression as a crime against international peace. Her delegation firmly believed that contemporary international law fully justified the designation of aggression as a crime against international peace giving rise to responsibility under international law. Historical precedents for the accountability of those guilty of unleashing aggressive wars were to be found in the Charters of the Nürnberg and Tokyo Tribunals, the basic principles of which had been widely accepted. Inclusion of the reference to responsibility for aggression should have a deterrent effect.

52. In view of the progress made by the Special Committee at its last session, her delegation supported the

recommendation that that Committee should be invited to resume its work in 1974 and appealed to all States to exert their utmost efforts to bring its work to a successful conclusion.

53. Mr. YASSEEN (Iraq) said that, while the definition of aggression was already implicit in existing international law, a great deal of effort would be required to make it explicit, since many divergent points of view had to be reconciled and a wide variety of circumstances taken into account. The definition, moreover, must be based on the Charter of the United Nations and all the other international legal instruments which had supplemented the Charter. Clearly, such a task was not to be quickly or easily accomplished. In his opinion, the reason why there had been so much delay in adopting a definition of aggression—a project which had started with the League of Nations—was the bona fide divergence of views on the interpretation of certain rules and also the divergence of interests between states. When in 1968 the United Nations had embarked on the task of defining aggression, his delegation had been optimistic that it would be successfully completed. As events had shown, that optimism had not been misplaced. Indeed, the Special Committee was to be commended for the constructive work it had done; the consolidated text it had adopted at its sixth session showed that it was very near to completing its task.

54. The Special Committee was not confining itself to formulating a definition *strictu sensu* of aggression but was also seeking to lay down a body of rules governing the consequences of aggression. In that regard, that Committee had rightly perceived the need to make explicit the doctrine of non-recognition of the consequences of aggression, realizing that, if aggressors were to derive any benefit from their acts that would make the prohibition of recourse to the use of force meaningless.

55. His delegation welcomed the Special Committee's acceptance of the principle that the definition of aggression should not in any way impair the right of peoples to self-determination and independence. The efforts of oppressed peoples to regain their independence and national territory and to struggle against foreign domination 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. Moreover, in his view the condition of priority was laid down in the Charter itself, in particular in Article 51, which covered self-defence.

56. Regarding intention, it should be stated that aggression is an intentional act, but a clear distinction should be made between intent and motive. The element of intent was present when an act of aggression was committed deliberately and in full awareness. However, the motives for an act of aggression, such as crossing with armed forces into the territory of another State, could be various and of differing degrees of seriousness. The motive could not change the crim-

inal character of an act of aggression, but it might affect the consequences of aggression. Unfortunately, it appeared that a certain amount of confusion persisted within the Special Committee as to that distinction between intent and motive.

57. He supported the recommendation that the Special Committee should be authorized to hold a further session in 1974 and hoped that it would complete its work at that session. A definition of aggression was of the utmost importance to enlighten international public opinion; it would greatly facilitate the task of those whose duty it was to determine acts of aggression.

58. Mr. APRIL (Canada) said that the position of his delegation on the substance of the various aspects of defining aggression was well known and had been stated by the Canadian representative at the sixth session of the Special Committee. Accordingly, on the current occasion he would confine his remarks to the question of renewing the Special Committee's mandate.

59. He noted with satisfaction that the Special Committee had made some progress at its sixth session. It was regrettable, however, that after so many years of discussion and negotiation that Committee had

not yet managed to reach an agreement on the basis of a consensus. The progress that had been achieved was due in large measure to the Chairman of the Working Group, who had been instrumental in maintaining a favourable climate for the discussions. Despite the new political climate of 1973 and the high quality of the debates, it would not have been reasonable to expect the issue to be finally resolved in a few weeks. It was to be hoped that the various groups and countries which had undertaken to redefine their respective positions at the sixth session would continue their efforts in that direction. If they did so, it was not inconceivable that the Special Committee would complete its work at the next session, thus ending a debate which had already gone on for too long. Canada was prepared to continue working within the Special Committee to achieve, on the basis of a consensus, an acceptable compromise which would respect the vital interests of each country and each group of countries. Accordingly, in view of the progress made at the sixth session, his delegation considered that the mandate of the Special Committee should be renewed once again.

The meeting rose at 1.10 p.m.

1441st meeting

Monday, 19 November 1973, at 3.30 p.m.

Chairman: Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1441

AGENDA ITEM 95

Report of the Special Committee on the Question of Defining Aggression (*continued*) (A/9019, A/C.6/L.957)

1. Mr. SANDERS (Guyana) said that the Special Committee on the Question of Defining Aggression had made great progress at its 1973 session and many delegations attending the session, including his own, had felt that given an extra week or so the Special Committee might have been able to reach agreement on a complete text. When the Special Committee resumed its work, it would be best to start at the point where it had left off and not to re-examine the issues already settled, to which compromise solutions had been found. If it continued in the spirit of open-mindedness and statesmanship which had prevailed at the sixth session, he was confident that the next session of the Special Committee would be its final session.

2. Turning to draft resolution A/C.6/L.957, which his delegation had been asked to introduce on behalf of the sponsors, he drew attention to the preamble, which noted the progress so far achieved by the Special Committee, stated the belief that such progress made it a practical possibility for the Special Committee to elaborate a generally acceptable draft definition of aggression at its next session and also noted the common desire of the members of the Special Committee to continue their work on the basis of the results

achieved. The operative part contained a request to the Secretary-General to provide the Special Committee with the necessary facilities and services, a decision to include the item in the provisional agenda of the twenty-ninth session of the General Assembly, and a decision that the Special Committee should resume its work early in 1974 with a view to completing its task and to submitting to the General Assembly at its twenty-ninth session a draft definition of aggression. Although the general wish has been for the Special Committee to meet at Geneva, the sponsors had decided to leave the venue blank until they had more ample information as to the availability of services at Geneva and possible dates.

3. The CHAIRMAN announced that Austria, the Byelorussian SSR, Canada, Egypt, the German Democratic Republic, Iran, Liberia, Panama, Senegal, the Sudan and the Ukrainian SSR were to be added to the list of sponsors of draft resolution A/C.6/L.957.

4. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) said that his delegation attached great importance to the elaboration of a generally acceptable definition of aggression because it believed that such a definition would contribute to the fulfilment of one of the fundamental purposes of the Charter—the maintenance of international peace and security. Such a definition would have a restraining influence on a potential aggressor and would promote the protection of the lawful rights and interests of countries which