

United Nations GENERAL ASSEMBLY

TWENTY-SECOND SESSION

Official Records



SIXTH COMMITTEE, 1020th
MEETING

Monday, 11 December 1967,
at 10.45 a.m.

NEW YORK

CONTENTS

Agenda item 95:

Need to expedite the drafting of a definition of aggression in the light of the present international situation (continued) 385

Chairman: Mr. Edvard HAMBRO (Norway).

AGENDA ITEM 95

Need to expedite the drafting of a definition of aggression in the light of the present international situation (continued) (A/6833 and Corr.1, A/C.6/378, A/C.6/384, A/C.6/L.636, A/C.6/L.637)

1. Mr. CARRILLO (Spain) said that the reason it had not been possible until now to define aggression was, firstly, that the problem was an extremely complex one, so that it was difficult to incorporate all of its elements into a legal definition, and, secondly, that aggression could not readily be defined in generalizations but rather in terms of clear-cut, specific cases. While it was true that defining aggression would not in itself prevent acts of aggression from being committed, it was nevertheless necessary and timely to draft a definition.

2. Due consideration would have to be given to the political and legal aspects of the problem, for defining aggression was merely one element of a much broader problem: that of establishing and maintaining, through collective action, a peaceful order and a genuine system of collective security. Three things were required in order to bring that about: the renunciation of force as an instrument of national policy, the existence of peaceful means of settling disputes which would make the use of force unnecessary, and collective action to defend peace not only by suppressing aggression but also by preventing it.

3. Even though the world had a long way to go before it achieved an international order that promoted peace, the present situation of uncertainty, relativity and inadequacy must not be permitted to continue. Although the balance of power might appear to some to be a means of guaranteeing a precarious peace, his delegation did not see any reason why total war and genuine peace must vanish from the world together, for it was possible to build a more just and more stable international order. That was why an effort must be made to draft a definition of aggression which would be an effective instrument for maintaining peace and whose value would lie in the fact that it was endorsed by the great Powers and by a substantial majority of States Members of the United

Nations. If those conditions were met, the drafting of a definition would prove to be useful, timely and desirable. As his country's representative had stated at the fifth emergency special session of the General Assembly, the legal order established by the United Nations did not yet provide a clear-cut answer to all the questions raised by the problem of defining aggression (1539th plenary meeting, para. 81).

4. His delegation had always favoured a very strict interpretation of the obligations which the Charter of the United Nations imposed on all States, particularly States Members of the Organization, in so far as related to the prohibition of the threat or use of force and to a genuine system of collective security based on justice, of which a definition of aggression would constitute an important element.

5. Mr. EL ARABY (United Arab Republic) said that although the question of the feasibility and desirability of defining aggression had already been settled by the General Assembly in resolution 599 (VI), nothing had been accomplished by the special committees set up subsequent to the adoption of that resolution. Attention should now be directed to the question of how best to expedite the adoption by the General Assembly of effective criteria to be used as guidelines for the competent United Nations organs. His delegation firmly believed that a definition of aggression would greatly contribute to the maintenance of peace and security. He recalled, in that connexion, that in 1945 his Government had submitted an amendment to the Dumbarton Oaks proposals calling for the inclusion in the Charter of a general definition of aggression.

6. In adopting a definition of the term "act of aggression" as used in Article 1, paragraph 1, of the Charter, the General Assembly would merely be performing its primary function of interpreting the Charter. The Security Council, which was the competent organ with regard to all breaches of the peace, would be in a better position to discharge its responsibilities without prejudice to its discretionary power to determine the existence of illegal acts. It was the opinion of his delegation, as it was of the great majority of States, that a definition of what constituted aggression would not in any way impair the authority and independence of the Security Council.

7. His delegation had always favoured a comprehensive type of definition which would, while clarifying the general notion of aggression as contained in the Charter, comprise a precise list of "acts of aggression". The enumeration would not be meant to be exhaustive. As his country's Minister for Foreign Affairs had stated as far back as 12 June 1952,^{1/} a general

^{1/} See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 54, document A/2162/Add.1.

definition of aggression should comprise the latter's three constituent elements, namely the legal element, which was the incompatibility of the act of aggression with the rules of the positive and customary international law in force, the material element, which would deal with questions of attempted and indirect aggression, and the moral element, which was represented by the existence of a premeditated intention to commit aggression and the absence of legal justification.

8. It should also be noted that a definition of aggression would pave the way for the development of international criminal law. In order to fix responsibility, it was essential to define *a priori* in clear terms the nature of an illegal act. He noted, in that connexion, that several important legal instruments had been laid aside pending the adoption of a definition of aggression.

9. During the debate on this item in the General Assembly (1618th plenary meeting) the representative of Israel had alleged that the measures taken by the Government of the United Arab Republic in May 1967 had constituted an act of aggression; to substantiate his allegation, he had referred to the draft definition submitted by the USSR in 1956.^{2/} The attempt by the representative of Israel to equate with a naval blockade the precautionary measures taken by the Government of the United Arab Republic in its territorial waters had been refuted on legal grounds by his delegation at the Security Council meeting of 29 May 1967 (1343rd meeting).

10. It was ironic that the representative of Israel should assert that his country's premeditated armed attack on four Arab countries had been legitimate. What Israel actually sought was to justify or camouflage its illegal acts by describing them as acts of self-defence. However, the Charter prohibited the use of armed force and clearly defined the procedure to be followed when a State felt that it was threatened. Invasion of the territory of another State could not be justified on any pretext.

11. Mr. SMEJKAL (Czechoslovakia) said that his Government's basic position on the need to expedite the drafting of a definition of aggression had already been set forth in the General Assembly (1613th plenary meeting).

12. The drafting of a definition was a difficult undertaking when one considered its scope, its content and the fact that it had to command broad acceptance and be generally observed. His delegation was nevertheless optimistic about the possibility of successfully carrying out the task, since few principles were as widely supported as the condemnation of aggression. A renewed effort must therefore be made in that regard in order to ensure the implementation of the principles of the Charter. His delegation's optimism also sprang from the fact that important changes had taken place in the world and in the membership of the United Nations since the latter had last taken up the problem of defining aggression.

13. Four arguments had been put forward against the Soviet proposal. First of all, it was contended by

some that the drafting of a precise definition of aggression was unnecessary and even dangerous. However, the observations made in that regard by the opponents of a definition had to do essentially with the general philosophy of law. The usefulness of and need for legal rules could not be denied by arguing that they might raise problems of interpretation and application. If there was to be a system based on legality which served to ensure peaceful co-operation among all States and therefore condemned aggression as the gravest of international crimes, it was absolutely essential to have a definition of aggression. A definition of an illegal act, whether in a particular country or in the international community as a whole, always provided an element of security. The Security Council, which was empowered under the Charter to establish the existence of any breach of the peace or act of aggression, would be greatly assisted in its task if there was a clear-cut definition of aggression which afforded the Council guidance in determining the guilty party and reduced the risk of arbitrary or unjust decisions and of the application of unduly subjective political criteria. A definition of aggression would also serve to guide world public opinion, which had for some time been exercising a decisive influence on the course of world events. Finally, such a definition would be effective in restraining aggression.

14. The second argument put forward by some delegations was that it was not possible to draft a definition of aggression and that that was a sufficient reason to reject any notion of such a definition. That was a purely political assumption. While it would be an oversimplification to say that those who supported that argument were seeking to defend a policy of aggression, it was unfortunate that such a viewpoint existed, even though it was not widespread. It was to be hoped that those who felt that it was not possible to draft a definition of aggression would nevertheless agree to the proposal to set up a special committee. His delegation, for its part, felt that it was both legally and technically possible to define aggression.

15. The third argument put forward was that the present time was not favourable for the drafting of a definition of aggression. The Committee set up by the General Assembly under resolution 1181 (XII) had, since 1957, had as its only task that of setting a date when it would be appropriate to take up once again the question of defining aggression. Although that Committee had been unable to arrive at a decision, a definition of aggression was more essential than ever under the present circumstances because of the deterioration of the international situation.

16. Lastly, it had been argued that it was unnecessary to set up a body to draft a definition of aggression and that that was a matter for an existing body. Members must realize that to entrust the task to an existing body would merely complicate its task and defer the preparation of such a definition indefinitely.

17. In conclusion, his delegation considered that the results of the work of the proposed special committee should be studied by the Sixth Committee and that initially the latter should concentrate, as the USSR representative had proposed (1618th plenary meeting), exclusively on defining direct military aggression, on

^{2/} Ibid., Twelfth Session, Supplement No. 16 (A/3574), annex II.

the understanding that the problems of indirect aggression would be dealt with later on.

18. Mr. COLE (Sierra Leone) said that the definition of aggression; was a matter of extreme urgency and whole-heartedly supported the USSR initiative in having the matter brought up for further deliberation. The Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States would certainly have been the best organ to study the question but, in view of the extremely complex task with which that Committee was already dealing, his delegation supported the proposal to set up a separate special committee to undertake the study of the question of defining aggression. That committee should include representatives of all the principal legal systems of the world.

19. His delegation had, however, some reservations regarding the other proposals which the Soviet Union had put forward in its draft resolution (A/C.6/L.636). Firstly, the draft resolution did not bring out sufficiently the fact that the codification and progressive development of international law in accordance with the Charter was the Organization's principal goal and that that concept was the pivot on which the maintenance of international peace and security turned. Secondly, his delegation considered that it would have been desirable to request the Secretary-General to make available to the proposed special committee all the relevant documents on the valuable work which the United Nations had already carried out on the subject over the past several years.

20. His delegation had not had time to study the draft resolution submitted by Afghanistan, Algeria, Burma, Cyprus, Ghana, Guinea, India, Indonesia, Kuwait, Mauritania, Syria, the United Arab Republic, the United Republic of Tanzania, Yugoslavia and Zambia (A/C.6/L.637) properly and reserved the right to state its position later in the debate.

21. In conclusion, he wished, on the occasion of the twenty-first anniversary of the United Nations Children's Fund, to pay a tribute to that organization's activities all over the world.

22. Mr. ALVAREZ TABIO (Cuba) said that his delegation welcomed the initiative taken by the Soviet delegation to bring about a further effort to achieve a definition of aggression. The Cuban people, for its part, had repeatedly had to withstand direct and indirect aggression—armed, economic and ideological. On the legal plane, a long series of discussions in the United Nations had failed to produce any positive result, although the General Assembly had considered in resolution 599 (VI) that it was possible and desirable to define aggression by reference to the elements which constituted it.

23. Those who opposed the formulation of a definition of aggression, whether general, enumerative or mixed, advanced the following four main arguments: first, the idea of aggression was a primary concept and was therefore not definable; secondly, a detailed list of acts of aggression could not constitute a definition as it would not be exhaustive; thirdly, it was undesirable to restrict the freedom of action of United Nations organs by a rigid and necessarily incomplete enumeration; and, finally, a definition would in a manner of

speaking be an invitation to potential aggressors to commit the offence.

24. So far as the first of those objections was concerned, legal norms were not abstract ideas and could not be dissociated from the life of society, for it was society that created and transformed them. To the extent that it would participate in their formulation, the Sixth Committee should endeavour, in the given instance, to describe in simple terms acts which occurred in international life and which had already been defined as crimes against peace in the Charter of the Nürnberg Tribunal. The definition of aggression must not only constitute a warning to aggressors but must also help to make it easier for States to choose the proper course of action in their international relations.

25. It could not, of course, be claimed that a definition could cover the infinite range of acts of aggression, particularly at the present time when power was exerted by brute force or by political or economic pressures designed to impose an order based on abuse and privilege.

26. However, the lack of a realistic definition of aggression would lead to great difficulty in identifying cases of self-defence. If an aggressor was free to decide himself what constituted aggression, he could cover his criminal acts with the cloak of self-defence. In his delegation's view, the war in Viet-Nam was an example that showed the possibilities of that legal expedient. For some jurists bent on giving the right of self-defence excessive scope, that right had a subjective character which underlay the maxim that the best defence was a preventive attack. In the face of those conceptions, which were clearly irreconcilable with the simple language of Article 51 of the Charter, an enumeration of the most significant acts of aggression would be an impediment to aggressors, just as a State's penal code was an impediment to those who violated the social order.

27. The objection founded in the limited nature of any enumeration was based on a pre-existing conception of aggression. Those who argued that it was dangerous to define aggression based themselves, as it were, on an implicit definition of the term.

28. With regard to the objection that a definition of aggression might tie the hands of the Security Council when it was faced with cases not included in that definition, he observed that if an act was not covered by the definition there was nothing to prevent it from being punished under some other concept, e.g., that of war crimes or crimes against humanity. Moreover, it was the Security Council's duty to be guided by a criterion of justice which it must try to find in international law and if the latter offered no clear solution with regard to the definition of aggression, the General Assembly must be asked to formulate that definition. It would be no more than a declaratory norm unless it were made the subject of a convention binding on the Council, without prejudice, however, to the Council's general mandate under Article 39 of the Charter.

29. Lastly, the argument that the definition of aggression would be equivalent to an invitation to commit the offence itself was an utter negation of the preventive value of rules of law. It could not be denied that,

from the juridical standpoint, international law, conceived as a body of compulsory principles and norms, must offer the peoples the same guarantees as the domestic law of States offered to their nationals. Unquestionably, the definition of aggression could reduce the possibilities of abuse in relations between States. Although certain forces were opposed at present to the reversal of situations based on relations of subordination in the international sphere, it was nevertheless true that a definition of aggression would limit the scope of arbitrary acts, since aggressors would be unable to invoke norms which could be made to say whatever one wanted. Events had shown that aggressors did everything possible to present the fait accompli in such a manner as to make the situation irreversible and used dilatory tactics to prevent the restoration of legality and justice.

30. If a preliminary definition of aggression existed that was formally recognized by the United Nations, future aggressors would have great difficulty in perpetrating their crimes and preventing their denunciation. The United Nations must endeavour to establish a new international order in which its role would no longer be confined to that of receiving complaints and establishing the facts according to the statements of the parties, like a simple police organ, but would also consist, so far as aggression was concerned, in categorizing the facts and restoring legal order. That would only be possible if the norms defining the offence were established before the offence was committed. What was essential was that the norm should have the desired effect, which was to ensure proper behaviour on the part of States.

31. In conclusion, he observed that under Article 2, paragraph 3, of the Charter, it was not the rule of the United Nations to maintain or restore peace at any price, but to ensure peace based on justice.

32. Mr. BLIX (Sweden) said that his delegation, while not opposing renewed efforts to define aggression, remained as sceptical regarding the usefulness of such efforts as it had been when similar attempts had been made by the General Assembly on previous occasions. He recalled the cardinal importance attached to the concept of aggression, so far as the obligations of States were concerned, in the League of Nations and under the Briand-Kellogg Pact,^{3/} and the effects of the judgement of the Nürnberg Tribunal. In the security system of the League, a definition had been legally and practically of vital importance. Unlike the situation in the United Nations, where the duty to take sanctions against a State flowed from a concrete decision by the Security Council, the situation in the League was that the duty of its Members had arisen automatically in the face of the resort to war of a Member, and States naturally had needed to know exactly what types of action constituted aggression.

33. He also noted the view that a definition would make it more difficult to start aggression, more difficult to confuse public opinion and easier to make the United Nations security system function.

34. Different approaches to a definition had been advocated. Since there was no generally accepted formula, it might be said that the world Organization now relied upon the consciences of the Members of the General Assembly and the Security Council, which decided by a majority, to develop a case-law definition of aggression. According to another approach, which might be termed the procedural method, any State which did not within a specified period of time comply with the orders of the international organs would be deemed to have committed aggression. Yet another approach was to enumerate the types of action which were considered to constitute aggression. It was on that formula of a non-exhaustive list which could serve as a guide for organs like the Security Council that interest had concentrated; unfortunately, however, if it was open to the international organ to regard actions other than the types enumerated as aggression, it would also remain open to States to maintain that their actions were taken in self-defence against non-enumerated types of aggression.

35. However, the answers to the question of the need for a definition and the choice of approach depended upon the purposes that the definition was intended to serve. For the functioning of the United Nations security system, it was not necessary to define the facts which called for action by the Security Council under Article 39 of the Charter, for that action was merely a police function to restore order and not a judicial function to assess the relative guilt of parties; wide discretion could therefore be used. If, on the other hand, it was a question of listing the acts which were forbidden to States, precise definitions were necessary because uncertainty in that respect would leave the door open to temptations and facilitate the defence of reprehensible action.

36. However, aggression no longer occupied among the concepts of the United Nations Charter the crucial place it had held in the Covenant of the League of Nations; the central concept was rather that of the threat or use of force, either "against the territorial integrity or the political independence of any State, or in any other manner inconsistent with the purposes of the United Nations", as laid down in Article 2, paragraph 4, of the Charter. It was possible that the concept of aggression or of aggressive war was covered by that Article, but it was certain, at least, that the concept of "armed attack" within the meaning of Article 51 of the Charter was relevant for the definition of the exceptions to that principle. In any case, it was the wide range of actions covered by Article 2, paragraph 4, which needed definition. That need had been recognized by the General Assembly, because some time before it had instructed a special committee to formulate that principle, among others.

37. The criminal character which the Nürnberg Tribunal had attributed to an "aggressive war" and which had been confirmed by the United Nations made a precise definition of that concept of criminal law of importance, both to warn government leaders of the punishment they might incur and to facilitate the exercise of the international judicial function. In that sphere, however, the range of reprehensible acts should be much more limited than in the sphere of police powers. At the same time, a tribunal should be

^{3/} General Treaty for Renunciation of War as an Instrument of National Policy, signed in Paris on 27 August 1928 (League of Nations, Treaty Series, vol. XCIV (1929), No. 2137, p. 57).

allowed to take into consideration the historical circumstances connected with the acts deemed to be criminal, in the same way as a national court took into account provocation or non-provocation, respectively, as extenuating or aggravating circumstances.

38. If the General Assembly were asked to denounce an aggression, any declaration to that effect would both give notice to the Security Council that it was entitled to take action under Chapter VII of the Charter and brand the act as reprehensible in accordance with the Charter but, since the Assembly was not a judicial organ, that declaration could have no relevance for the question of possible criminal liability.

39. With regard to the procedure to be followed, his delegation thought that it would be wise to postpone setting up a special committee to define aggression until the principle prohibiting the threat or use of force and the principle of non-intervention in matters within the domestic jurisdiction of any State had been defined, to avoid the overlapping between the two activities which would be inevitable. However, to comply with the wishes of many delegations and because such a definition could be of relevance for certain purposes, his delegation would not oppose the establishment of a special committee, provided that its mandate was formulated in an acceptable manner.

40. Mr. YAKIMENKO (Ukrainian Soviet Socialist Republic) said that the definition of aggression could play a vital part by contributing to the progressive development of international law in a field bearing on the prevention of conflicts and by enabling the Security Council to intervene more effectively in situations in which States were opposed to each other. He was pleased that most delegations hoped that the work would soon begin and noted that the United States delegation itself had emphasized its importance.

41. He drew the Committee's attention to the statements made by his delegation during the General Assembly's debate on the problem (1612th plenary meeting, paras. 80-119) and wished to clarify a number of points concerning the arguments put forward by the opponents of the proposed work. Firstly, no one claimed that the definition of aggression was a new question. It had for a long time been included in the agenda of the General Assembly, but the work on it had failed because of the obstacles raised by its opponents. The only new element was the Assembly's decision to place the item on the agenda in its present form, thus finally settling the question when it would be most appropriate to undertake the definition of aggression. The only question now was to expedite the work.

42. Nor was it claimed that the definition of aggression was itself a guarantee of peace. It would nevertheless be useful if States respected the legal norm which it would establish and were resolved to reject acts which were contrary to that norm. The United Nations Charter provided adequate machinery to prevent aggressive acts, but it was none the less true that a definition of aggression would help the Security Council in its task.

43. It would be absurd to be influenced by the argument that offences were committed deliberately rather than out of ignorance. As the Cuban representative

had pointed out, such an attitude might negate all the work of the jurists and that of the Sixth Committee. The legal nature of the definition of aggression should also be affirmed.

44. With regard to the method of work to be adopted, his delegation was in favour of setting up a special committee.

45. Mr. MUSA (Somalia) expressed his delegation's support for any proposal which would emphasize the urgent need to define aggression. He hoped that a special committee would be set up to undertake the work and that its composition would reflect all the existing legal systems.

46. Mr. JEANNEL (France) said that, while there was general agreement on the desirability of carrying out the task of defining aggression, there were very different opinions as to how that should be done in practice. Firstly, there was disagreement regarding the actual scope of the concept of aggression, some considering that it should only apply to the use of arms, whereas others wanted it to include the use of economic and ideological pressure. There was also disagreement between the partisans of some general synthetic formula and those who favoured an enumeration. Lastly, the reasons for the failure to agree were also political and legal. Politically, States might wish to form a defensive alliance to ensure their security, but, the more devoted they were to peace, the more anxious they were not to be automatically bound to certain courses of action by the clauses of the treaty in question. Consequently, the idea of unprovoked aggression was always included, explicitly or implicitly, in treaties of alliance. But there was, in fact, no legal definition of the concept of provocation either.

47. The adoption of the United Nations Charter had marked an appreciable step forward in that connexion, because Article 1, paragraph 1, stated the principle of the suppression of acts of aggression. Article 51 also gave a certain definition of aggression, a definition which might be called negative insofar as the Article stated that resort to arms did not constitute aggression if it constituted the exercise of the right of self-defence, while leaving open the question of the definition of self-defence. Article 39, however, represented the biggest advance, since it conferred upon the Security Council full power to determine what acts constituted aggression, thus depriving the parties involved of the power to make such a determination solely in the light of their own subjective judgement.

48. Future discussions on the definition of aggression should take place in that context, it being borne in mind that no definition would have any real meaning unless it was acceptable to all States and especially to those primarily responsible for the maintenance of peace.

49. His delegation appreciated the difficulty of the task, but was too deeply attached to the peace, freedom and security of nations not to contribute to such a task, however hard it might be. That was why it considered draft resolution A/C.6/L.637 an acceptable reply to the question put to the Committee.

50. Mr. MARPAUNG (Indonesia) said that there was general agreement that the existence of a definition of aggression could facilitate substantially the adoption of decisions to prevent and halt acts of aggression. On the other hand, it must be admitted that it seemed almost impossible to formulate a definition that would cover all cases of aggression; there was a danger that a State might invoke the terms of such a definition to justify an act not specifically covered by it. Nevertheless, unlike those who had stressed the failure of the efforts which had been going on for nearly forty years, he considered that there was no reason for despair as long as all Member States continued in a concerted effort to find an acceptable definition of aggression.

51. Some representatives had said that a definition of aggression would be meaningful only if it was approved by the Security Council and by a two-thirds majority of Member States in the General Assembly. There was, however, no evidence to show that a definition agreed upon by the Sixth Committee would be rejected by the Security Council and the General Assembly.

52. It had also been said that the existence of such a definition would restrict the Security Council's discretionary power of appraisal. In reply to that argument, it might be asked what effective measures the Security Council could take to settle the conflicts in the Middle East and Viet-Nam without an agreed definition of aggression. He considered, on the contrary, that the existence of such a definition would strengthen the position of the United Nations, despite the loop-holes which it must inevitably contain.

53. Some representatives had expressed the opinion that it was not possible to give a definition of aggression because aggression was a political concept. It was true that the term "aggression" was employed in the constitutions of political organizations such as the League of Nations and the United Nations, and that it was a purely political organ, the Security Council, which determined whether a specific act was or was not an act of aggression. Nevertheless, that did not mean that the interpretation of the definition should vary according to the interests of the State concerned.

54. Lastly, to those representatives who considered that a definition of aggression should not take political considerations into account but should keep to the letter of the Charter, he would reply that he shared the opinion of the six judges of the International Court of Justice who, on 28 May 1948, had affirmed that, in the interpretation of Article 4 of the Charter, political considerations could be taken into account on the ground that the General Assembly and the Security Council, which had the final power of decision in the matter, were purely political organs.^{4/} The same could be said in regard to the concept of aggression.

55. In his delegation's opinion, in seeking a definition of the concept of aggression account must be taken of several important factors, the first of which was the political conceptions which had first introduced

the notion of aggression into international law. It was clear from a reading of Article 10 of the Covenant of the League of Nations that aggression existed where there was a will to impose a domination either by armed attack or by other means. That Article had served as a source of inspiration for the drafting of provisions found in many later agreements and, in particular, in Article 1, paragraph 1, Article 2, paragraphs 4 and 7, and Article 39 of the United Nations Charter. Secondly, account must be taken of the fact that the purposes and principles of the League of Nations and of the United Nations, directed to the maintenance of peace and security, were identical. Thirdly, the development of the use of the notion of aggression in positive international law must be studied. In that connexion, he drew attention to the fact that the term "aggression" had been used in the sense he had mentioned in a number of treaties concluded between 1921 and 1948. The provisions of those treaties relating to aggression did not use the term in its usual sense, since an act could be categorized as an act of aggression even in the absence of coercion or the use of physical force. That became particularly clear from a perusal of articles 15 and 16 of the Bogotá Charter^{5/} which prohibited aggression of a military, economic or ideological character. Lastly, account must be taken of the present international situation.

56. His delegation considered that any definition of aggression, in whatever form, should place the main emphasis on the ultimate aim of the aggressor, namely, the imposition of his will by coercion, regardless of the means used for that purpose.

57. With regard to the method to be followed in formulating a definition of aggression, some wanted to assign that task to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. He did not think that would be desirable, as the Special Committee was already overburdened with work. The Indonesian delegation was in favour of the establishment of a special committee to draw up a definition of aggression, as proposed in draft resolution A/C.6/L.637, of which it was a sponsor, because it considered that such a step would serve to intensify the efforts already undertaken to find a permanent solution to the problem.

Mr. Mwendwa (Kenya), Vice-Chairman, took the Chair.

58. Mr. HERRERA (Guatemala) recalled that at the ninth session of the General Assembly his delegation had stated that, in its view, the formulation of a definition of aggression was both possible and timely and that it was in favour of a mixed definition which would combine a flexible general statement with a non-restrictive enumeration of typical instances of aggression (see 410th meeting, para. 21). Its position, which remained unchanged, was based on two fundamental arguments. Firstly, the adoption of a flexible general formula would provide a common denominator for all acts of aggression and would help the competent organs of the United Nations to decide each individual

^{4/} Conditions of admission of a State to membership in the United Nations (Article 4 of the Charter), Advisory Opinion of May 28th, 1948; I.C.J. Reports 1948, p. 57.

^{5/} Charter of the Organization of American States, signed at Bogotá on 30 April 1948 (United Nations, Treaty Series, vol. 119 (1952), I, No. 1609, p. 48).

case. Secondly, the enumeration of typical instances would enable world public opinion to identify States guilty of aggression. It was, moreover, a mistake to say that a definition in the form of an enumeration would deprive the competent organs of the United Nations of the power conferred on them by the Charter to take a decision on specific cases submitted to them. Any misgivings in that regard could be removed by a reference to General Assembly resolution 599 (VI).

59. In view of those considerations, his delegation was prepared to support any draft resolution the purpose of which was to seek a definition of aggression, i.e., any draft resolution that provided for the establishment of a special committee, laid down for that special committee clear and broad terms of reference which would enable it to make a thorough study of the question and, lastly, decided that the item should be included in the agenda of the twenty-third session of the General Assembly.

60. Mr. OGUNDERE (Nigeria) said that the item under consideration essentially concerned the Security Council, which, under Article 39 of the Charter, had the duty to determine the existence of any act of aggression. On the other hand, the item had been submitted to the General Assembly pursuant to Article 13 of the Charter, which stated that the General Assembly should initiate studies and recommendations for the purpose of promoting international co-operation in the political field and encouraging the progressive development of international law and its codification. His delegation considered that, after the failure of past efforts to define aggression, in which many of the young States of Africa and Asia had not taken part, the Sixth Committee should take up that task once again and thus afford those young States an opportunity to make their contribution. At the worst, such efforts would at least serve to reveal the areas of agreement and disagreement.

61. He noted that Article 2, paragraph 4, of the Charter had an important bearing on the problem under consideration, inasmuch as the threat or use of force was a part of a set of elements which, in combination or separately, might constitute aggression. The proposed special committee should consider the relationship of the concept of aggression to the concept of the threat or use of force and also to other corollary concepts contained in other Articles of the Charter, including Article 51.

62. He noted that the objectives of draft resolutions A/C.6/L.636 and A/C.6/L.637 were the same, but he expressed reservations concerning the third and fourth preambular paragraphs of the former. The latter text, on the other hand, seemed acceptable. However, he hoped that it would be possible to arrive at a text which would be acceptable to all.

63. Mr. MUNDELEER (Belgium) said that he would like to indicate why his delegation could not support draft resolution A/C.6/L.636. In the first place, the United Nations, despite its many efforts to arrive at a definition of aggression, had been unable to make

any real progress. Its failure was due to the fact that the concept of aggression seemed to be closely bound up with the political and ideological beliefs of States, as the discussion of the question in plenary meetings had shown. Member States reached completely different conclusions in judging certain international conflicts. Yet the United Nations system was certainly not devoid of means to combat aggression, since there was a collective security system which conferred powers for the maintenance of international peace and security on various organs, and primarily on the Security Council; as everyone was aware, considerable results had been achieved through that system.

64. It was felt in some quarters that the drafting of a definition of aggression would facilitate the task of the United Nations organs responsible for the maintenance of peace and security; however, it was clear that an "objective" definition of aggression might not be sufficiently precise or broad to cover every act of aggression which, under the terms of the Charter, the United Nations was required to prevent or combat, and might even encourage the aggressor.

65. In the present state of international relations and international law, he felt that the prevention of aggression must be entrusted to organs which had enough freedom of judgement to act in the most varied situations; that had been seen quite clearly by the authors of the Charter, who had also considered the question of defining aggression and had finally decided to assign the task of taking a decision in each individual case to political bodies. There was also the question whether the introduction of such objective criteria for defining aggression would not entail changes in the United Nations system.

66. He would like to draw the attention of delegations which believed that further attempts at definition would be useful to certain points that must be borne in mind in taking a decision on the subject. Firstly, as many speakers had pointed out, the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States would be considering in 1968 the principle prohibiting the threat or use of force; in view of the fact that the Special Committee had been instructed to formulate a number of legal principles which were directly linked to the concept of aggression, it would be unthinkable that the General Assembly should immediately take a further decision on defining aggression, without awaiting the Special Committee's conclusions.

67. Secondly, his delegation agreed with all those which held that any attempt to define aggression would fail if it was made at a time when the international situation was unsatisfactory. That had been recognized by the General Assembly itself at the time of the adoption of resolution 1181 (XII), establishing a Committee which was to decide when the attempts to arrive at a definition, which the Assembly had then abandoned, should be resumed. The recent debate in plenary meetings had disclosed particularly profound differences of view on the international situation. His delegation therefore considered it inadvisable at the present stage to make a further attempt to define aggression. It believed that all States Members of the