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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. Pursuant to General Assembly resolution 2781 (XXVI) of 3 December 1971, the Special Committee on the Question of Defining Aggression reconvened at United Nations Headquarters from 31 January to 3 March 1972, in order to resume its work in accordance with General Assembly resolution 2330 (XXII) of 18 December 1967, and prepared a report covering the work of its 1972 session.^{1/}
2. At its 2037th plenary meeting, on 23 September 1972, the General Assembly decided to include in the agenda of its twenty-seventh session the item entitled "Report of the Special Committee on the Question of Defining Aggression", and allocated it to the Sixth Committee for consideration and report.
3. The item was considered by the Sixth Committee at its 1346th to 1352nd and 1366th, 1368th and 1371st meetings, held between 31 October and 24 November 1972. At the 1346th meeting, on 31 October, Mr. A. I. Teymour, the representative of Egypt and Rapporteur of the Special Committee on the Question of Defining Aggression, introduced the Special Committee's report.
4. At its 1366th meeting, on 20 November, the Sixth Committee decided that its report on the agenda item should contain a summary of the principal juridical trends which had emerged during the debate, the financial implications of such a summary having previously been brought to its attention in accordance with General Assembly resolution 2292 (XXII).

^{1/} Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 19 (A/8719).

II. DRAFT RESOLUTION SUBMITTED TO THE SIXTH COMMITTEE

5. At its 1371st meeting, on 24 November, the representative of Mexico submitted a draft resolution sponsored by the following States: Cyprus, Ecuador, Egypt, Guyana, Kenya, Madagascar, Mexico, Morocco, Spain, Sudan, Uganda, Ukrainian Soviet Socialist Republic, Uruguay and Yugoslavia (A/C.6/L.868), later joined by Bulgaria, Czechoslovakia, Iran, Nicaragua, Romania, Zaire and Zambia. 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 fifth session, held in New York from 31 January to 3 March 1972,

"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 the report of the Special Committee,

"Considering that there was not sufficient time for the Special Committee to complete its task at its fifth 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 and 2781 (XXVI) of 3 December 1971 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 at a draft definition,

"1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work, in accordance with General Assembly resolution 2330 (XXII), as early as possible after 1 April 1973;

"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-eighth session an item entitled 'Report of the Special Committee on the Question of Defining Aggression'."

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6. At the same meeting, the representative of Mexico, on behalf of the sponsors, orally revised the draft resolution as follows:

(a) The third preambular paragraph should read "Considering that it was not possible for the Special Committee to complete its task at its fifth session";

(b) The sixth preambular paragraph should read "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".

He further stated that the revision of the sixth preambular paragraph should not be interpreted as meaning that the Special Committee could not proceed in accordance with the rules of procedure of the General Assembly. In this connexion, some representatives stated that the draft resolution should not be interpreted as justifying any retreat from the principle of consensus which has proved to be so useful in the work of the Special Committee.

7. Also at the same meeting, the representative of Ghana orally proposed to insert "in Geneva" in operative paragraph 1, after the word "work". This proposal was adopted by 29 votes to 26, with 46 abstentions.

III. DEBATE

8. Section A below contains a summary of the opinions expressed on certain preliminary questions relating to the Special Committee. The principal juridical trends are summarized under sections B and C, which deal with the opinions expressed on certain general aspects of the question of defining aggression and on the content of the definition.

A. Opinions expressed on certain preliminary questions relating to the Special Committee

9. With regard to the mandate of the Special Committee, most of the representatives who spoke supported the resolution in which the Committee recommended that the General Assembly invite it to resume its work in 1973.^{2/} They pointed out that the Special Committee had made great progress towards reaching a generally acceptable definition of aggression. It was stated that, although no such agreement had yet been achieved, the summary of the report of the informal negotiating group^{3/} showed clearly that the Special Committee's task was nearer solution than ever before; it contained a list of a number of basic elements of the definition on which agreement had been reached. Still more important, perhaps, was the fact that the summary afforded a clear view of the issues which were still causing some difficulties. The Special Committee, it was observed, had been criticized for its slow rate of progress, but such criticism failed to take account of the complexity and difficulty of the task; it might be useful to recall that it had taken 10 years to produce the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. Some representatives, however, maintained that the outcome of the Special Committee's 1972 session had been disappointing. Although the informal negotiations, it was said, had made it possible to reach agreement on some elements of the definition, it should be remarked that acceptance of those elements, which were closely interrelated, was

2/ Ibid., para. 14.

3/ Ibid., annex II, appendix A.

subject to an over-all solution, as noted in the introductory paragraph to the summary of the report of the informal negotiating group.^{4/} It was further said that, while agreement had been reached on a few minor points, such as the question of political entities other than States and while there seemed to be a basis for agreement on the right of peoples to self-determination, the most difficult problems were still unresolved, namely, those of priority and aggressive intent, the indirect use of force and the legitimate use of force. In view of the slow progress of the Special Committee's work, it was said, the Sixth Committee might consider either renewing its mandate for 1973 or giving it time to reflect by deferring its next session until 1974. It was also said that, if no progress on the issue were achieved in 1973, the General Assembly should re-examine its priorities and consider carefully whether to allow a certain breathing space during which countries could take stock and perhaps try to bridge their differences through informal negotiations.

10. Regarding the working methods followed by the Special Committee, some representatives supported the establishment of a working group and favoured the holding of informal negotiations carried out between formal meetings of a working group. In the opinion of one representative, however, the fact that the functions of the 1972 Working Group had effectively been discharged by an informal negotiating group pointed to the advisability of dispensing with the Working Group; instead, informal consultations should be held within the broader framework of the Special Committee as a whole.

11. With regard to the composition of the Special Committee, some representatives reiterated the plea they had made the previous year for the participation of China; that participation would be a positive element in the search for a balanced and generally acceptable definition.

12. Some representatives were of the opinion that the Special Committee should not be convened early in 1973. They considered that, in the past, the Committee had been requested to resume its work too soon after the end of the session of the General Assembly, so that delegations had tended to restate their former positions because they had not had time to consult their Governments and other interested

^{4/} Ibid.

delegations. There should be, therefore, a reasonable interval between the end of the current session of the General Assembly and the beginning of the 1973 session of the Special Committee in order to permit delegations to take a fresh look at their positions and initiate informal negotiations.

13. In the opinion of some representatives, the Special Committee's next session should take place at Geneva, having regard to the principle of rotations.

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

14. Most of the representatives who spoke stressed the necessity of defining aggression. A definition of aggression, it was observed, would have a considerable impact at a time of easing of international tensions. It would enhance the effectiveness of the United Nations as an instrument for the maintenance of peace, provide the Security Council with positive guidance and make the existence of acts of aggression easier to determine. It would indicate to States how far they might properly go in the exercise of their right to self-defence. Furthermore, it would establish the rights and obligations of States and pave the way for the preparation of further instruments, such as the code of offences against the peace and security of mankind. It would also represent an important contribution to the codification and progressive development of international law. As time passed, it was also observed, the need for a definition of aggression was increasingly recognized as a more than helpful factor in eliminating the elements of indecision and subjectivity which characterized situations where the issue was, if not to discourage a potential aggressor, at least to expose it and establish its international responsibility. Moreover, apart from the fact that it would enlighten international public opinion and associate it with the work of the United Nations bodies responsible for testifying to acts of aggression, the definition would facilitate the task of those bodies and enable them to carry it out properly and impartially. It would also protect certain States against their own weaknesses by bringing out, for example, certain forms of favouritism, and it would enable them to fulfil their peace-making role more effectively. It was essential, especially for the sake of the developing countries, that a definition

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of aggression should be worked out as soon as possible. Such a definition was the primary basis of international law, which the small countries urgently needed for their national reconstruction, the safeguarding of their dignity and their relations with big Powers.

15. On the other hand, some representatives continued to question the necessity or desirability of a definition of aggression. In this connexion, it was held that Article 2, paragraph 4, of the Charter provided sufficient direction to the Security Council in applying Article 39 with regard to the determination of the existence of acts of aggression. Furthermore, doubts were expressed about the feasibility of defining in a legal and abstract manner something which was constantly changing from the political viewpoint. It was observed that the task of formulating a definition of aggression was particularly difficult in that it meant working not merely on a list of specific acts which ought not to be committed, but on a term which implied judgement of the conduct of States and directly involved the operation of the collective security mechanism. The founding fathers of the United Nations had decided that a definition of aggression was not essential to the operation of the system of security established by the Charter. Indeed, a generally acceptable definition might be of some utility in helping the United Nations to deal with certain types of situations, although that did not mean that even the most perfect of definitions should be binding on the relevant organs of the United Nations. It could well be that in a particular case the most effective action on which agreement could be obtained to trigger the collective security mechanism would be to find that there had been a threat to or a breach of the peace rather than an act of aggression.

16. With regard to the procedure to be followed for the formulation and adoption of a definition of aggression, some representatives considered that, if the definition were to serve its purpose, it must be adopted by consensus. While acknowledging that consensus was the best method in the case of such an important question, other representatives felt that it was nevertheless essential to achieve results quickly; if general agreement could not be reached, the Special Committee must face up to its responsibilities and ensure that the views of the overwhelming majority prevailed. It was observed that the Special Committee had endeavoured over the last few years to reach a consensus, but it was now high time to

consider the application of the majority rule; after all, that was how certain provisions of the Charter had been adopted; a definition accepted by a majority was better than no definition at all. Some representatives believed that any attempt to take decisions other than by consensus was too vulnerable both from the political and juridical points of view. They failed to see what could be the political and juridical value of a definition of aggression unless it were supported by the overwhelming majority of States, including the permanent members of the Security Council. If any other rule than that of consensus were followed, it was said, a potential aggressor could always cite the lack of unanimity as a pretext to justify its attitude. Moreover, it could not be seriously thought that an interpretation of a document to which all were parties could be imposed by a majority of States or a minority.

17. In this connexion and with special reference to the three main draft proposals before the Special Committee, some representatives expressed the opinion that the Committee should agree to work on the basis of one draft instead of three and to choose the draft favoured by the majority, if unanimity could not be reached. Other representatives felt that it was inadvisable to concentrate exclusively on one draft proposal, however widely supported, and ignore the others; a definition that was not acceptable to all States would remain a dead letter of purely academic interest.

C. Opinions expressed on the content of the definition

1. General definition of aggression

18. Some representatives referred to the "General definition of aggression" appearing in the "Summary of the report of the informal negotiating group established by the Working Group".^{5/} Regarding the words "however exerted" placed in square brackets, the opinion was expressed by some representatives that these words should be omitted, since they placed aggression and any other breach of the peace on the same footing, whereas according to the Charter they differed in gravity and should be evaluated differently. The removal of the brackets, it was

^{5/} Ibid., section I.

observed, depended on whether or not it was decided to include in the definition a provision relating to the indirect use of force; as the inclusion of such a provision appeared likely, the bracketed words should not present any real problem. It was pointed out that in order that the definition should be as precise and comprehensive as possible, it would be desirable to include wording such as "in any form whatsoever", so that the definition would cover every use of force. It was further stated that the word "armed" appearing in the general definition in question was too restrictive in scope and should be deleted.

19. With regard to the word "sovereignty", which also appears in square brackets, some representatives felt that the use of this word was unjustified and the definition should follow the terminology used in Article 2, paragraph 4, of the Charter. In the opinion of other representatives, the Special Committee's task was not to define the principle of the non-use of force, which was proclaimed in that clause of the Charter, but to set out some of the acts affecting territorial integrity, sovereignty and political independence which were contrary to international law.

20. The inclusion in the general definition of aggression of a sentence to clarify the meaning of the term "territorial integrity" was considered as superfluous by one representative, who observed that every specialist in international law knew that territory included territorial waters and air space. While agreeing with the view that territorial integrity included territorial waters and air space, another representative felt that the concept should be expanded to cover all marine areas within national jurisdiction, to conform more closely with the modern approach, which was gaining ground in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in connexion with the future law of the sea. It was also suggested that the words "the purpose of" should be inserted before the words "the Charter of the United Nations" appearing in the general definition in question.

2. The definition and the power of the Security Council

21. The opinion was stressed that the definition of aggression was useful only if it respected the powers and duties of the Security Council; those powers were political in nature and their exercise was a matter for the discretion of the

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Council; it was therefore debatable whether it was possible to bind the Council by a definition. It was also observed that, under Article 39 of the Charter, the Security Council was authorized to determine the existence of any threat to the peace, breach of the peace, or act of aggression; no restriction could be placed on those powers other than by a reform of the Charter. On the other hand, it was stated that the powers of the Security Council were not discretionary, because under Article 24 of the Charter the Council had only "primary", and not exclusive, responsibility for the maintenance of peace. There should not be any confusion between discretionary powers and arbitrary powers, and the Security Council, whatever its powers might be, could never exercise them without the sanction of the Charter. If the definition were to constitute a correct interpretation of the Charter, it was said, the Security Council would be under an obligation to apply it.

3. Acts proposed for inclusion in the definition of aggression

22. The question whether or not the definition should cover the so-called indirect use of armed force was raised by some representatives. In this connexion, it was said that the definition could not be exhaustive and should contain a minimum list of the most serious cases of aggression, corresponding to Articles 39 and 51 of the Charter. However, the list of acts of aggression could include the sending of armed bands by one State into the territory of another State. It could also include some acts of indirect aggression which would be considered as such under Article 39 of the Charter, but which would not confer the right of self-defence under Article 51. It was essential to ensure that notions as imprecise as "support of subversion" did not make it possible wrongly to invoke self-defence to justify a preventive war taking the form of an armed attack; it was juridically unacceptable to say that in such cases the right of self-defence under Article 51 could be invoked provided that it was proportionate to the indirect aggression. On the other hand, it was stated that there was no basis in the Charter for limiting the interpretation of the term "aggression" to direct, as distinct from indirect, uses of forces. The term in its ordinary meaning and in the context in which it appeared was entirely apt to cover a use of force of either kind. Moreover, in the modern world the indirect use of force was tending to take the place of direct aggression. Consequently, any definition of aggression must include both

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forms of the use of force, since they were comparable in their purposes and their effects. It was further maintained that the Charter did not distinguish between different types of aggression. The use of force referred to in Article 2, paragraph 4, did not differentiate among the various kinds of illegal force, ascribing to them degrees of illegality according to the nature of the technique of force employed. Similarly, Articles 1 and 39 spoke of "aggression" without specifying the various methods a particular aggressor might favour. There was no provision in the Charter enabling a State to escape from the Charter's condemnation of illegal acts of force by a judicious selection of means to an illegal end. The temptation to settle for a partial definition of aggression was puzzling in view of the fact that the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which had been accepted by consensus, already contained wording covering indirect uses of force. If it were the fear that a State which was the victim of aggression might over-react that troubled certain delegations, the fear could be appeased by recourse to the principle of proportionality without distorting the basic concept of the term "aggression" as used in the Charter.

23. Some representatives were of the opinion that the definition should not be limited to armed aggression, but should take into account forms of aggression involving methods other than armed force. It was stated that, if there were a grave threat to the livelihood of the population of another State, which could on occasion be more destructive and devastating than the threat caused through an open armed attack, such an act should be regarded as constituting an act of aggression as much as an armed attack. Armed aggression, it was also stated, was the most dangerous and naked form of aggression, but other forms - economic, political or cultural - were equally dangerous. In order to ensure the progressive development of international law, it was further said, the scope of the definition should subsequently be extended to cover other forms of indirect aggression, such as political and ideological warfare conducted by radio or by the distribution of subversive literature calculated to undermine a country's power of resistance or to bring about a change in its political or social system; in particular, stress should be placed on the importance of economic aggression, as in the case of a

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trade embargo. It was pointed out that the essential concept of aggression was not limited to a straightforward and open armed attack; it could also be extended to cover other acts. As there was agreement on some elements of the definition, it was felt that the most urgent need was to consolidate whatever agreement existed and to leave the definition open-ended so that at some future stage other elements could be included in it.

24. With regard to specific provisions under the heading "Acts proposed for inclusion" appearing in section I of the summary of the report of the informal negotiating group, it was suggested that specific reference might be made to attack by chemical and bacteriological weapons or any other weapons of mass destruction. On the other hand, such reference was considered as constituting an unjustified extension of the problems relating to aggression. It was further stated that the reference between square brackets in paragraph (b) to weapons of mass destruction was unnecessary, since the text already referred to "the use of any weapons".

25. Of the two alternative texts under the heading "Indirect use of force" appearing in section II of the summary of the report of the informal negotiating group, some representatives preferred the first. It was said that that alternative enumerated specific, easily established acts; thus, "the sending of armed bands" was a manifestation of the concepts of violation of territorial integrity and of the use of armed force contained in the general definition. On the other hand, the second alternative was much less specific: for example, the terms "organizing or encouraging the organization" and "for incursion" were imprecise and did not contain the element of violation of territorial integrity. Other representatives favoured alternative 2, which was in conformity with the language used on that subject in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. The opinion was expressed that the section concerning "indirect use of force and minor incidents" should be deleted, since the Security Council would clearly take into consideration whether an act of aggression was too minimal to be declared as such.

4. The principle of priority

26. As to various elements of a definition of aggression, several representatives considered that, in the first place, the principle of priority, a fundamental criterion to be found in all systems of municipal law, was of paramount importance in any such definition. It was the basic criterion in identifying an aggressor, since it would prevent States from committing acts of aggression under the pretext of waging a so-called preventive war. It was not enough to say that it would be given "due regard"; priority was a constituent element of aggression, referred to implicitly in Article 51 of the Charter. It was said that all States had the right to respond by force of arms as soon as the act of aggression started, regardless of the intentions or motives of the aggressor, since the victim had no means of ascertaining the aggressor's intentions. The competent bodies of the United Nations could take such motives into consideration in deciding on collective measures, but establishment of the motives of the State which had first used force should not have the effect of absolving that State from responsibility or reversing the positions of the two parties. It was for that reason, it was added, that the definition should include a provision stating that no considerations relating to the internal or foreign policy of a State could serve as a justification for the use of armed force against that State by another State or group of States. It was also observed that priority was only a presumption, since the State presumed to be the aggressor must be allowed the right to adduce proof to the contrary, by showing for example that its act constituted self-defence.

27. In view of the complexity of actual situations, other representatives expressed strong reservations about the possibility of a quasi-automatic application of the principle of priority. They continued to believe that the remaining difficulties on the questions of priority and aggressive intent could be resolved on the basis of the progress achieved at the 1971 session of the Special Committee, provided delegations resisted the temptation to return to their earlier positions. It was said that there was in fact no incompatibility between those two criteria, which would make it possible to distinguish between acts of aggression and acts of self-defence. The criterion of priority made it possible to establish a presumption of intent. It implied an objective imputation of guilt and should be given preference in cases of armed aggression: it was for the alleged originator of the

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aggression to prove its innocence. In the case of indirect aggression, within the meaning of Article 39 of the Charter, guilty intent was once again an essential element of the offence, but its existence was for the Security Council to determine.

5. Aggressive intent

28. Some representatives continued to believe that the element of intent should be a fundamental ingredient of any definition of aggression. The question of aggressive intent, it was observed, gave rise to a persistent misunderstanding; there were those who persisted in equating the element of intent, as employed by the sponsors of the six-Power proposals, with subjectivity. The existence of intent must be inferred on the basis of objective analysis from the surrounding circumstances, as was normally the case in municipal law. The stated intention was no doubt a factor to be taken into account, but it was not determinative, and it should be discontinued when it is inconsistent with the weight of the evidence. There was therefore no ground for saying that the inclusion of the element of aggressive intent in a definition would enable a State to escape condemnation.

29. Several representatives were opposed to including the aggressive intent in the definition. It was said that the notion of animus aggressionis had no place in a definition, since it was a subjective element: an act of aggression came into existence per se as soon as it was committed, and the motives for such an act were totally irrelevant. Moreover, to stipulate that aggressive intent was an essential element for determining aggression was tantamount to placing the burden of proof on the victim of aggression and might conceivably result in the aggressor being found innocent. It was further said that the principle of priority was irreconcilable with the criterion of intent and that the two criteria should not be included in the definition on the same footing. The combination of priority and intent would provide a loop-hole for escaping condemnation as an aggressor which would go far beyond the current provisions of the Charter and cast doubt on the usefulness of a definition containing such elements.

6. Legitimate use of force

30. Regarding the right of self-defence, it was stated that to define the notion of aggression was in effect also to define that right, as embodied in Article 51 of the Charter: the definition should be made an effective means of sanctioning the right of self-defence against the unlawful use of force. It was also observed that, while Article 51 of the Charter recognized that self-defence constituted an exception to the prohibition of the use of armed force, it provided that that right could be exercised only in cases in which the victim of an armed attack was a Member of the United Nations and only until the Security Council had taken the necessary means to maintain international peace and security; those members of the Special Committee who disassociated the exercise of the inherent right of self-defence from the provisions of Article 51 were thus disregarding both the letter and the spirit of the Charter. It was further said that the right of self-defence under that Article existed independently of the Charter, which could not and should not be used or misused as a pretext for enlarging the scope of what was recognized as the legal use of force, especially in Chapter VII of the Charter.

31. Some representatives were of the opinion that the principle of proportionality should not be included in the definition of aggression. It was observed that that principle had been accepted by international law in connexion with the right of self-defence long before the drawing up of the Charter. Since the adoption of the Charter, the right of self-defence could, under Article 51, be exercised only in response to armed aggression. That limitation on the right of self-defence had achieved the objective previously sought by the principle of proportionality. It was easy to imagine the unfavourable consequences which the introduction of the latter principle into the definition could have for a State suffering aggression, which would be restricted even in its choice of the moment at which to retaliate. Other representatives felt that it would be useful to include the principle of proportionality in the definition. In that regard, it was stated that that principle was a safe guarantee that a defensive action would remain defensive and was not a cover for an aggressive act. It was further said that the proper application of the principle of proportionality was in distinguishing between aggression and self-defence. Even there, however, the legal maxim summum jus

summa injuria should be followed, since, if the means of defence were sharply disproportionate to the means of attack, self-defence might degenerate into another form of aggression.

32. Some representatives referred to the question concerning the organs empowered to use force. It was maintained that the Security Council alone had the authority to decide on the use of force. It was also said that the most important principle of the definition was the one set out in operative paragraph 1 of the 13-Power draft proposal, namely, that the United Nations only had competence to use force in conformity with the Charter. An argument which had proved to be a stumbling-block to agreement was that the sole authority of the Security Council to authorize the use of force should be mentioned in the definition. It was enough to state that that right was vested in the international community; it was quite unnecessary to specify in the definition what organ of the United Nations could exercise the right. Some representatives opposed the inclusion in the definition of aggression of a provision recognizing the legitimacy of the use of force by regional arrangements or agencies without the prior authorization of the Security Council, because that could only weaken the very clear provisions of Article 53 of the Charter.

7. The right of self-determination

33. In the opinion of several representatives, the definition of aggression should include a provision concerning the right of peoples to self-determination. In that regard, it was said that the use of force by peoples under colonial domination was justified in Article 51 of the Charter, since colonial domination could be assimilated to continued aggression. The same applied to military occupation, another type of continued aggression which gave its victims the right to seek to recover the territories occupied. The right of enslaved peoples to fight for their freedom and independence could in no way be considered as an act of aggression and must be stated explicitly in any definition. It was further said that States which gave material support to dependent peoples, in accordance with their obligations under the Charter and with the relevant resolutions of the United Nations, should not be unjustly accused of supporting acts of aggression. Peoples which were denied the right to self-determination were entitled to request and

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receive all assistance including military aid. It was also stated that the right of self-determination was not a secondary right which could receive only justification and defence; it was a fundamental right which required that any act impeding its exercise should be condemned. It was therefore suggested that the definition should include the following tentative text making the imposition of foreign rule an act of aggression: "The use of armed forces or other instruments of control to impose or maintain colonial rule over a people or deprive them of their fundamental right to self-determination and independence."

34. On the other hand, it was observed that the definition of aggression was too complex a question to be complicated further by efforts to introduce elements which had nothing to do with the notion to be defined. There was no basis in the Charter or the works of legal writers for linking the concept of aggression to the right to self-determination, a step which merely created an extraneous issue. The question of self-determination was carefully regulated in the Charter, which contained no provisions permitting any alternative to peaceful means of settling possible disputes in that area. There could be no exception to Article 2, paragraph 4, which guaranteed respect for the principle of non-intervention in the internal affairs of States.

35. In that connexion, it was said that reference to the relevant provisions of the Charter and 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 could provide a possible solution to the conflict of views as to whether self-determination had any place at all in the definition of aggression. It was also observed that the two alternatives concerning "the right of peoples to self-determination", appearing in section II of the summary of the report of the informal negotiating group, should not present any great difficulties, inasmuch as all members of the informal negotiating group had acknowledged the need to include a special guarantee in that respect in the definition of aggression.

8. Legal consequences of aggression

36. In the opinion of the representatives who spoke on this subject, the definition should contain a provision concerning the legal consequences of aggression. In this regard, it was stated that no definition of aggression could serve the cause of peace and security if it failed to recognize the legal consequences of an aggressive action; any complete definition should therefore include a provision regarding the international responsibility of the aggressor as well as the inadmissibility of any territorial or other gain resulting from acts of aggression. It was said that the illegal occupation of territory through an act of aggression could not be recognized; that was a reaffirmation of the principle, proclaimed at the time of the League of Nations, that an act of war could not create, modify or extinguish any right. Aggression, it was further stated, should be declared a crime against international peace, a step which would discourage potential aggressors and lay the legal foundations for the criminal responsibility of the individuals who had launched the acts of aggression and the international responsibility of the guilty State. The opinion was expressed that the Special Committee should deal with the question of non-recognition of territorial gains obtained by force in the preamble of the definition and not in the operative part, because it concerned the legal consequences of aggression and was not an element of aggression itself.

IV. VOTING

37. At its 1371st meeting, on 24 November, the Sixth Committee adopted the draft resolution (A/C.6/L.868), as revised and amended (see paras. 6 and 7 above), by 101 votes to none, with 2 abstentions. The representatives of the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland made statements in explanation of their votes.

V. RECOMMENDATION OF THE SIXTH COMMITTEE

38. The Sixth Committee recommends to the General Assembly the adoption of 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 fifth session, held in New York from 31 January to 3 March 1972, 6/

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,

Considering that it was not possible for the Special Committee to complete its task at its fifth 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 and 2781 (XXVI) of 3 December 1971 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,

6/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 19 (A/8719).

1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work at Geneva, in accordance with General Assembly resolution 2330 (XXII), as early as possible after 1 April 1973;
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-eighth session an item entitled "Report of the Special Committee on the Question of Defining Aggression".
