



Chairman: Mr. Erik SUY (Belgium).

AGENDA ITEM 88

**Report of the Special Committee on the Question of
Defining Aggression (continued) (A/8719)**

1. Mr. KHAN (Pakistan) said that it was a matter of deep regret that the problem of defining aggression should remain unresolved after 20 years of work on it. He expressed warm appreciation of the sincere and strenuous efforts of the Special Committee to reach an agreed or generally accepted definition, although it was evident from its report (A/8719) that while agreement had been reached on some elements of the definition, on others there was deadlock eluding settlement.

2. That failure in the past should lead not to discouragement but rather to a redoubling of efforts. The delegation of Pakistan was convinced that, given goodwill, a spirit of understanding and accommodation and a little flexibility, it would not be impossible to solve the complex and difficult problem. As was clear from the report, a consideration of the various draft definitions and proposals submitted had brought to light certain elements of the definition, laying down broad principles on which there was general agreement. It was also crystal clear from the report that all delegations recognized the urgent necessity of finding a solution.

3. There was no doubt that all States, large or small, were anxious to reach some generally accepted definition of aggression, but there was no gainsaying the fact that the smaller States, and in particular those who had the misfortune to have hostile and militarily powerful neighbours, felt very much perturbed over the delay in the work to that end. The major Powers were admittedly anxious to reach a definition but they were protected by the current armaments balance—the fear of sure retaliation operated as a deterrent. They were fully conscious of the fact that an act of aggression committed by any one of them would spare neither the aggressor nor the victim and would plunge the whole world into an unprecedented disaster. The smaller States, on the other hand, were condemned to live constantly in a state of insecurity for they did not possess the means necessary to protect their political independence or even their mere existence—a situation which could only obstruct their economic, social and political development. The urgent need to expedite the achievement of a definition of aggression could not be over-emphasized. Once adopted such a definition was bound to have some salutary effect on

a potential aggressor. At the same time, the determination of acts of aggression would be rendered easier and simpler. The fact that the defence of the territory of the victim of aggression as well as the protection of its interests and rights would be assured by the United Nations was hardly a matter for serious controversy. That was the essential purpose of the definition.

4. In annex II, appendix A of the report were enumerated those elements of the definition on which agreement had been reached. Those elements could be used as a basis for moving ahead in pursuit of the noble objective of the maintenance of international peace and security. It seemed needless to wait indefinitely for agreement on those elements which had momentarily given rise to differences. They were neither irreconcilable nor permanently insurmountable. There could never be a final definition of aggression in a constantly changing and complicated world. New elements might be discovered in the future which could appropriately be included in the definition of aggression. The decision to adopt the core of a definition should be taken; experience and trial would help overcome differences on those elements which had so far proved insurmountable.

5. The delegation of Pakistan wished to record its views on certain essential aspects of a definition. It was of the firm opinion that when a State's territory or a part of it was held unlawfully by another State, in breach of international obligations through the use of armed force, aggression was committed. That was the situation which existed in the Middle East and in Namibia, in utter disregard of the resolutions of the Security Council and the General Assembly and, in the case of Namibia, an Advisory Opinion of the International Court of Justice as well. The condoning of the like acts of aggression provided encouragement to other States to commit similar acts. Situations in such troubled areas could be normalized if such acts were regarded as acts of aggression and dealt with accordingly.

6. His delegation was not in favour of the concept of anticipatory self-defence. It supported the strict interpretation of Article 51 of the Charter. The right of self-defence was limited to a situation where an armed attack actually took place against the territory of a State. It became quite clear, if Article 51 and Article 2, paragraph 4, of the Charter were read together, that a State did not have the right to invoke the principle of self-defence to declare war in order to prevent an attack. Moreover, the concept of proportionality ruled out the right of a State to declare war in the traditional sense, for the objectives of war were incompatible with the limited right of self-defence.

7. Furthermore, the delegation of Pakistan was of the view that the definition of aggression should be as objective as possible and that subjective elements such as that of aggressive intent, which was a necessary ingredient of the six-Power draft (*ibid.*, annex I, draft proposal C) should be avoided. No civilized country recognized intention as a criminal act under law. Therefore, the enumeration of the purposes of aggression in the six-Power draft was not acceptable, because it did not rule out the possibility of an attack or an invasion on the pretext that the State attacked harboured aggressive intentions.

8. The essential concept of aggression was not limited to a straightforward and open armed attack. It could be extended to cover other acts also. As there was agreement on some elements of the definition, his delegation considered 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. Pakistan, which had more than once been the victim of aggression in the past, and might become the target of similar acts in future, was keenly interested in the adoption of a definition, but held that it should be kept open.

9. The delegation of Pakistan considered that when grave and wilful damage to the territory of a State was caused by

another State, regardless of the means employed, it might constitute an act of aggression. The means employed were not of the essence in any definition of aggression. What was relevant was that, through a deliberate act, one State should inflict a grave injury on the territory or people of another State. Because an armed attack was carried out openly it was easy to agree that it was aggression pure and simple. If, however, 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.

10. The delegation of Pakistan hoped that the Committee would give due consideration to its suggestions in striving to formulate the definition of aggression.

11. The CHAIRMAN announced that the list of speakers on the item before the Committee would be closed on 2 November at 6 p.m.

The meeting rose at 11.30 a.m.