

GENERAL  
ASSEMBLY

## SEVENTH SESSION

## Official Records



Wednesday, 26 November 1952, at 10.40 a.m.

Headquarters, New York

## CONTENTS

Page

Question of defining aggression: report by the Secretary-General (A/2162, A/2162/Add.1, A/2211) (continued) .....	181
-------------------------------------------------------------------------------------------------------------------	-----

Chairman: Prince WAN WAITHAYAKON (Thailand).

Question of defining aggression: report by the  
Secretary-General (A/2162, A/2162/Add.1, A/  
2211) (continued)

[Item 54]\*

1. Mr. TARAZI (Syria) referred to his delegation's part in discussions on the question of defining aggression at preceding sessions. He commended the Secretary-General's report (A/2211), though he wished to correct a statement of fact. In paragraph 163, reference was made to the armed conflict involving the new State of Israel and the neighbouring Arab States. The resolutions adopted by the General Assembly and the Security Council disposed of that assertion. They merely spoke of the restoration of peace in Palestine, without mentioning the State of Israel specifically. The Arab States had defended the cause of the Palestinian people, who were victims of violence and were threatened with subjection to an authority based on race theories. Whereas the Arab States had agreed to carry the resolutions of the Security Council into effect, Israel had not done so and had not permitted the refugees to return home.

2. He had not changed the attitude he had adopted at the sixth session. He was still of the opinion that a definition of aggression was possible, desirable and advisable. Article 39 of the Charter made such a definition necessary. The Security Council, though the sovereign judge of the facts, should nevertheless, like national courts, be guided by statutory provisions. The opponents of an enumerative definition had expressed the fear that an incomplete list might leave the way open to possible aggressors. Actually, the competent organs would always be able to reason by analogy. Some had argued that at the moment the situation was so unsettled that any attempt at definition was likely to meet with defeat. The exact opposite seemed to be the case. The real motives by which the opponents of the idea were actuated were rather of a political nature. The divergences of view arose from differing political conceptions. It was relevant to recall how

certain territories in Asia and Africa had fallen under the domination of European Powers whose chief aim, under the pretext of performing a sacred trust, had been to exploit for their own profit the natural wealth of those countries and to keep the peoples in the category of what had come to be called "under-developed countries". To illustrate his case he quoted a passage from *La révolte de l'Asie*. What was described as subversive or fanatical plotting was usually only the manifestation of a feeling of revolt on the part of those peoples, which were asserting their rights.

3. The Committee should endeavour to find a favourable atmosphere for a definition of aggression. For that purpose, certain conditions had to be fulfilled. Some related to the existence of the Charter. By signing the Charter, the peoples had proved that the capitalist and socialist systems could exist side by side. Any attempt on the part of either of those two groups to annihilate the other would be the ruin of mankind. To ward off that danger, the Charter had recognized the principle of the sovereign equality of all States. It was no longer possible to speak of the policy of the great Powers as based on the system of the balance of power. The disappearance of the balance of power should, logically, lead to the prohibition of aggression. It followed that the Charter made a definition of aggression necessary. What must be done, therefore, was to examine, not the hidden intentions of the authors of a proposal, but the proposal itself.

4. On 24 September 1927, the Assembly of the League of Nations had declared that aggression was an international crime, and that it was and always should be prohibited.<sup>1</sup> In 1928, the Havana Conference had decided that all aggression must be regarded as illicit, and as such, prohibited.<sup>2</sup>

<sup>1</sup> See *League of Nations, Official Journal, Special Supplement No. 53*, Resolutions and recommendations adopted by the Assembly during its Eighth Ordinary Session, Geneva 1927, p. 22.

<sup>2</sup> See *The International Conferences of American States, 1889-1928*, (Publications of the Carnegie Endowment for International Peace, Division of International Law, Washington), Oxford University Press, New York, 1931; Sixth International Conference of American States, Resolution, p. 442.

\* Indicates the item number on the agenda of the General Assembly.

5. The Charter had regarded the liberation of the peoples as the condition of a stable and lasting peace. Unfortunately, that situation had not yet been realized. Consequently, any action to check the impulses of those peoples towards independence was inconsistent with the Charter. The dominated peoples looked upon a definition of aggression as a means of emancipation. Since the Charter had recognized the equality of rights of all nations, the so-called "small" States were quite justified in trying to free themselves of the ties which had been imposed upon them by threats or in return for the promise of benefits which had never been granted. Any attempt to resist, by violence, this liberating movement would amount to aggression. A definition seemed necessary in that connexion, as also in view of the problems raised by the progressive development of international relations. Such a development raised, in particular, the question of indirect aggression, a form that was frequently employed.

6. The question of defining aggression was therefore closely connected with the problem of maintaining international peace and security and with the application of the principles of international criminal law. Most members of the Committee admitted that a definition was possible, but disagreed on the methods to be employed. While reserving the right to speak on it later, he was inclined to support the Iranian representative's idea that a working party should be established to reconsider the problem in all its aspects.

7. Mr. MAURTUA (Peru) said the Secretary-General's thorough report (A/2211) reflected the historical development of the problem under discussion. The successive failures of the international bodies which, before the Second World War, had striven to safeguard international security were due, in particular, to the resistance of States obsessed with the principle of their sovereignty and to the excessive legal scruples of the drafters of international instruments. There had been a succession of pacts and treaties, none of which had been adequate to express the desires of the signatories and to safeguard security. An attempt had been made to guide the development of international law towards the idea of sanctions, and that had given rise to the idea of defining the aggressor. Yet nothing tangible had been accomplished. The League of Nations had been unable to apply the rules which had been prepared without allowing itself to be guided by political, military or economic criteria. The question had not emerged from the realm of theory.

8. In its treatment of war, international law had organized procedures and formulated rules, but it had regarded war itself as the final outcome of the clash of interests. That was the idea of underlying the Hague Conventions of 1899 and 1907 and of other later instruments. A further stage had been passed, but the goal was still remote. The international community was not yet sufficiently organized. A system of sanctions was, however, taking shape, and its development might produce interesting results. The definition of aggression was a stage preceding the organization of a system for applying sanctions. In the past, all efforts had been hampered by the existence of political preoccupations which came to the surface whenever the idea of national sovereignty was at issue. In the current debate, political preoccupations were still playing a decisive

part. In such an atmosphere, it was difficult for legal concepts to make any headway. In actual fact, all the States were, first and foremost, trying to justify their policies. While that attitude perhaps represented some progress, it was not enough to resolve technical questions.

9. International law certainly required a definition of aggression to supplement the system of pacts of non-aggression and guarantee. By means of a definition collective action would become more than a fact and would attain the stature of law. Such a development would be slow and it was perhaps not yet possible to make a complete definition. It had been claimed by some that a list of typical cases might, in some circumstances, bind the hands of the Security Council. What was required was a full, enumerative list which would cover cases of threats, provocations and economic, cultural and other forms of aggression. Even though the definition were incomplete, however, that would not prevent it from having some effect. In domestic law, offences were becoming constantly more complex and it was impossible to make provision for all the forms they might take. But the law laid down guiding principles and enumerated the principal elements involved, ample latitude being given to the discretion of the courts. An enumerative definition therefore had its advantages. It could be combined with a synthetic definition, if the common elements by which the crime of aggression was characterized could be condensed and brought within the limits of a single formula.

10. The idea should not be dropped merely because the circumstances were unfavourable. Some day the objections would disappear. The definition of aggression would not be enough to maintain peace, but it would be a foundation stone in the structure of the organized international community, by virtue of which that community would acquire the monopoly of the use of force.

11. That aspect was still more important in the system of regional agreements. While enumerating typical cases of aggression, the Treaty of Reciprocal Assistance signed at Rio de Janeiro left a large part to be played by judgment in individual cases. It had been claimed that definition would suffer through not being applied by a judicial body. That was not correct, for the parties would always be able to submit their disputes to an international court. The Security Council itself would, in its decisions, have to make allowance for whatever legal elements were involved.

12. Along with Articles 39, 41 and 42 of the Charter, which provided for the organization of a system of sanctions, Article 40 provided for provisional measures or measures of conservation. That was a stabilizing procedure. The article stated that the Security Council should take account of failure to comply with such provisional measures. The Rio de Janeiro Treaty contained a similar provision and stipulated that refusal to comply with the provisional measures would give rise to a presumption of aggression.

13. Those were only ideas which would have to be developed. A favourable atmosphere had not yet been created. As yet no international criminal jurisdiction existed. Development of the concept was hampered by over-fervent nationalism and considerations of prestige. The United Nations itself did not always obtain

the support which it might expect from governments. The work of the International Law Commission had encountered similar obstacles. Instruments like the covenants on human rights faced considerable difficulties. While, at the moment, a definition of aggression remained desirable, it seemed hardly likely to materialize. The best course was, without pessimism but with an objective outlook, to await the development of the situation.

14. Mr. JUMELLE (Haiti) said the Secretary-General's report (A/2211) was most helpful to the Committee. The crime of aggression was so serious that it ought to be defined within the framework of the system of collective security. Unlike some representatives, he thought there was no need to discuss the preliminary question of whether such a definition was possible, inasmuch as that problem had been settled by General Assembly resolution 599 (VI). The Committee should therefore take up the substance of the question.

15. Some delegations thought that a definition would be dangerous because no formula could be devised to cover every case of aggression. That argument was illogical, for no law anywhere at any time succeeded in enumerating all the situations to which it would apply. A definition ought to be drafted in declaratory terms, but that would be sufficient. It should not be said of the Committee that it had failed to define aggression.

16. His attitude was a result of his nation's history, for Haiti had achieved independence in difficult circumstances and had pushed forward in its development despite the hostile attitude of the more advanced countries, which had subjected it to every form of aggression. In particular Haiti had experienced indirect and moral aggression.

17. He placed his trust in the United Nations and asked his colleagues not to disillusion those who looked to the Organization. In view of the deep cleavages which had come to light in the Committee, however, it would be inappropriate to define aggression at the moment.

18. Accordingly, he would support the joint draft resolution (A/C.6/L.265), though he emphasized that moral aggression should be included in any definition ultimately drawn up.

19. Mr. FITZMAURICE (United Kingdom) recalled his statement that a definition of aggression would be valid only if it contributed to the maintenance of peace and security; he had, however, expressed the fear that the definition would not stop an aggressor and would be of no use whatsoever to the competent international bodies. He had hoped to hear some reply from the Committee but had received only an indirect and not very encouraging answer. As several delegations had admitted the truth of his observations, it was pertinent to ask what advantages the delegations favouring a definition hoped to derive from it. The debate showed that that desire reflected a motive of general policy and that the countries of the Soviet bloc were not the only ones to be guided by that motive. Some delegations thought that the existence of a definition of economic aggression would enable them to engage in attacks in the General Assembly on the economic policies of other countries. There was no doubt about that, if the Committee considered some of the items

currently before the Second Committee. There were also such questions as Tunisia and racial policy in the Union of South Africa. It would be a simple matter to claim that the fact that a State continued to administer another country or that it adopted a particular racial policy constituted aggression.

20. Accordingly, he doubted whether those in favour of a definition really wanted a technical definition of aggression for any genuine motive of maintaining peace and security, and he respectfully disagreed with the Bolivian representative in thinking that a definition of aggression would reduce international tension, for on the contrary it might constitute an insidious propaganda weapon which would endanger friendly international relations. The Greek representative had rightly pointed out that the notion of economic aggression might have a sweeping application, and the Peruvian representative had mentioned cultural aggression. On this basis anything could be dubbed aggression and the whole thing become meaningless.

21. But even if a reasonable definition on paper were arrived at, would it serve much purpose? Several representatives had acknowledged that a definition could serve only as a guide, but he thought that different countries could not fail to interpret and apply it differently. For example, the USSR did not interpret the definition contained in its draft resolution (A/C.6/L.264) in the same way with regard to the Korean question as the Western Powers did. The concept of economic aggression was bound to raise the idea of economic self-defence. Whatever the definition, totally different constructions would be placed on it, and a position would be reached entirely irreconcilable with the interests of the United Nations.

22. As to the argument that aggression must be defined in international law because crimes, and murder in particular, were defined in domestic law, he pointed out that in domestic law there was no true definition of murder; at most, certain rules, including rules relating to excusable homicide, were stated. Similarly, the impossibility of defining the cases in which the plea of self-defence constituted exoneration from the charge of aggression had been demonstrated at the sixth session.

23. He disagreed that under the provisions of General Assembly resolution 599 (VI) the Committee was bound to consider a definition of aggression possible. The resolution had been adopted by a very small majority; moreover, the word "possible" should be understood to mean "practical". His delegation still felt, therefore, that consideration of the question should be postponed until later.

24. Mr. GREEN (United States of America) said that under rules 115 and 118 (c) of the rules of procedure, his delegation proposed to move the adjournment of the discussion of the question after the closure of the general debate.

25. Mr. MAURTUA (Peru) explained that his delegation was particularly interested in the development of the principles of international law. His earlier intervention had been intended only to show that it was the Sixth Committee's duty to face the problem, which filled a real need in the international community. The question of defining aggression was a technical one. It

was not insoluble, although it was particularly difficult to settle at the moment. In order to produce lasting results the Committee should not attempt a political solution, which would be appropriate only if political considerations alone were decisive. It was essential to avoid the spreading of conflicts the settlement of which should be under the jurisdiction of the United Nations alone.

26. Mr. ABDON (Iran), introducing the joint draft resolution (A/C.6/L.265), said that he had suggested the possibility of setting up a special committee with explicit terms of reference to draft the definition of aggression, but as he had learned that various points had not yet been given sufficient study he thought the special committee's terms of reference should not be defined too precisely. That was the meaning of the joint draft resolution.

27. The draft provided that the committee should submit a draft definition of aggression or a concept of aggression to the ninth session of the General Assembly. In using the word "concept" the sponsors had thought more of the characteristics of aggression, whereas a definition in the academic sense of the word ought to include every aspect of the question.

28. He hoped that the compromise solution, which represented a real step forward, would satisfy a majority of the Committee, which seemed to feel that the idea of defining aggression should not be set aside, as would be the result of the proposed United States motion (A/C.6/L.266).

29. Mr. GREEN (United States of America) explained that his delegation did not mean to propose that the plan to work out a definition of aggression should be abandoned outright, but merely that consideration of the problem should be postponed for the time being.

30. Mr. SPIROPOULOS (Greece) asked for some further clarification of the distinction which the joint draft resolution drew between the definition and the concept of aggression. In his opinion the two terms could mean the same thing. They could therefore not both be used in the draft resolution.

31. Mr. ABDON (Iran) explained that in the view of the draft resolution's sponsors a definition of aggression, following the academic approach, would necessarily include every element of the crime, whereas the concept of aggression, if precisely stated, would give the competent organs guidance enabling them to identify any act of aggression. Personally, he was prepared to accept any suggestion which would improve the wording of the draft resolution, particularly if he thought it indicated a willingness to support the draft resolution if the suggestion were accepted.

32. If he had understood correctly, the United States delegation did not intend to ask for the adjournment of the question *sine die*; accordingly it should not refuse to support the joint draft resolution, the only purpose of which was to advance the work undertaken in that direction. He called upon the United States delegation to consider supporting the joint proposal.

33. Mr. MOLINO (Panama) stated that from the purely technical standpoint it was perfectly possible to define aggression. For instance, it might be said that

any illegitimate act, direct or indirect, committed by a State with the object of interfering with another State in the exercise of its sovereign rights constituted, or was presumed to constitute, aggression. If a very broad definition of the term were wanted, it might include acts which at first sight and taken singly did not constitute aggression but which did constitute aggression if occurring in conjunction.

34. Some delegation had mentioned indirect aggression and others had stressed the political, economic and military aspects of aggression. It was obvious, however, that the definition could not specify every form which aggression might take. Moreover, it was a remarkable phenomenon that one Member of the United Nations had set itself up as the champion of the country which had been named the aggressor in Korea by the General Assembly. Hence, efforts to work out a definition of aggression were purely academic and devoid of any immediate practical interest. It would perhaps be well therefore to defer the work till later in the hope that international relations would improve.

35. The sole advantage of the joint draft resolution was that it proposed to refer the question as a whole to the ninth session of the General Assembly.

36. Mr. BARTOS (Yugoslavia) called the United Kingdom representative's attention to the fact that many delegations, including the Yugoslav delegation, had repeatedly stressed the practical value of a definition of aggression. They had stated that such a definition would awaken or strengthen the legal conscience of the world against aggression; that it would help to develop international law and so would serve to strengthen the legal structure of the Charter; that, if not a deterrent to aggression, it would at least be a warning to States likely to commit aggression; and, lastly, that it would help the competent organs of the United Nations by making it easier to specify with greater accuracy what acts constituted aggression.

37. Mr. SERRANO GARCIA (El Salvador) said there was a wide difference between the definition and the concept of aggression. Every definition had to conform to the special rules of logic, whereas a concept, being broader, allowed more flexibility in its formulation. The legislator, fully aware of the difficulty of containing sometimes very broad subjects within the narrow confines of a definition, was averse to definitions and introduced more concepts than definitions into his codes.

38. He would have preferred the Committee to apply itself to the formulation of the concept of aggression; however, he would not discourage efforts to work out a definition of aggression, if the Committee should deem it advisable.

39. Mr. SALAMANCA FIGUEROA (Bolivia), after pointing out that his delegation had collaborated in drawing up the joint draft resolution and that its name should appear among the list of sponsors, answered the United Kingdom representative's remarks.

40. Admittedly, a definition of aggression in itself would not deter aggression and he agreed with the United Kingdom representative that aggressors were influenced by the inherent risks of the contemplated action and its chances of success. However, a definition in which such a move was described as aggression



would rouse in world public opinion a feeling that would make it easier to identify aggression and hence would further the development of international law. It would also result in enlarging the risks that caused potential aggressors to hesitate.

41. The small nations were more exposed to the danger of aggression than any others, in particular the danger of economic aggression. In law all States were equal, but there was no economic equality. International rules of law should be laid down that would encourage friendly relations among equal States. Sooner or later, the question of defining aggression would have to be settled. The time was hardly propitious for agreement on the matter, but at the risk of being accused of idealism, he urged that the work which had been started should be continued. That was the object of the joint draft resolution.

42. Mr. BAZZAZ (Iraq) stated that his delegation, in the belief that no definition would succeed in preventing aggression in the future, would not declare itself for or against definitions that might be proposed.

43. He wished to point out to the United Kingdom representative that the legal could not be dissociated from the political aspect. The United Kingdom delegation had said that those supporting a definition of aggression had been motivated by political considerations. But surely similar motives led the United Kingdom delegation to refuse to define aggression.

44. With reference to the possible use of a definition of aggression in connexion with the policy pursued by certain Powers in Non-Self-Governing Territories such as Tunisia or Morocco, he declared that no lawyer could dispute that the use of force in those territories to prevent the attainment of the people's legitimate aspirations constituted aggression.

45. Mr. ABDOH (Iran) endorsed the Iraqi representative's remarks.

46. Mr. HERRERA BAEZ (Dominican Republic) recalled that some delegations had stressed the danger which lay in contemplating the problem solely from the point of view of formal logic and had urged that, while some guidance should be given for the work to be done, those responsible for it should be allowed fairly wide latitude. On account of those considerations his delegation had, with others, included the provisions of sub-paragraph 2 (b) in the draft resolution. The problem indeed offered considerable difficulties but because of its importance, its study should not be abandoned and efforts should be continued with a view to overcoming the obstacles now standing in the way of its solution.

47. Mr. EL-TANAMLI (Egypt) could see no substantial difference between a definition and a concept

of aggression. No concept could be formulated except by reference to its material, moral and legal ingredients. He therefore asked for additional information from the authors of the joint draft resolution.

48. Furthermore, it might be asked, in view of the terms of General Assembly resolution 599 (VI) providing for the formulation of a definition of aggression, whether the adoption of the joint draft resolution would not clash with the General Assembly resolution and represent a retrograde step.

49. Mr. TARAZI (Syria) agreed with the Egyptian representative's remarks.

50. Mrs. BASTID (France) stated that her delegation endorsed the joint draft resolution in principle. If amended in such a way as to give greater prominence to the link between the definition of aggression and the code of offences against the peace and security of mankind as well as international criminal law, the draft could serve as a useful basis for constructive work by the United Nations.

51. As mentioned before, her delegation had refrained from tracing the history of past aggressions. As for the future, from the point of view of the common interest of States, no advance would be made towards solving the problem if the definition were regarded—as some delegations appeared to regard it—as a weapon directed against any given political situation or against the conduct of a given State.

52. Mr. CORTINA (Cuba) recalled that his delegation, believing firmly that it was possible to define aggression, had thought that the Committee might have set up a sub-committee with express instructions concerning the definition it was expected to draft. However, to reconcile the two different schools of thought in the Committee, the Cuban delegation had felt it necessary to modify its attitude somewhat and had associated itself with the delegations submitting the joint draft resolution.

53. The definition was to the concept what regulations were to the law. A definition was concrete whereas a concept was more general, broader and wider in scope. If the definition were compared to the body, it might be said that the concept was the equivalent of the soul. The formula on which the authors of the draft had settled was perhaps not perfect. It might, as the Egyptian and Syrian representatives had stated, seem to imply a certain retreat from the stage reached in the General Assembly resolution, yet it was capable of leading to agreement. He was prepared, as co-author of the draft, to consider any amendments that might be proposed.

The meeting rose at 1 p.m.