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**Chairman: Mr. Francisco V. GARCIA AMADOR**  
(Cuba).

**Tribute to the memory of Mr. Mahmoud Azmi**

1. The CHAIRMAN, speaking on behalf of the Committee, extended condolences to the Egyptian delegation on the sudden death of Mr. Mahmoud Azmi, whose passing was as much a blow to the United Nations as to his own country.
2. Mr. TARAZI (Syria) wished to pay a tribute to Mr. Azmi in the name of the Arab countries. Mr. Azmi had devoted his life to helping his country in its struggle for independence and to furthering the prosperity of the Arab world, which would long remember him.
3. Mr. MOROZOV (Union of Soviet Socialist Republics), Mr. NANDY (Pakistan) and Sir Gerald FITZMAURICE (United Kingdom) joined in the expression of condolence to the Egyptian delegation.
4. Mr. EL ERIAN (Egypt) thanked the Committee for its sympathy with the great loss suffered by his country. Mr. Azmi had not only laboured tirelessly in the United Nations, but had been extremely active in acquainting the Arab countries with the work of the United Nations.

**AGENDA ITEM 51**

**Question of defining aggression: report of the Special Committee on the Question of Defining Aggression (A/2638, A/2689 and Corr.1 and Add.1, A/C.6/L.332/Rev.1, A/C.6/L.334/Rev.1, A/C.6/L.335, A/C.6/L.336/Rev.1) (continued)**

**GENERAL DEBATE (concluded)**

5. Mr. WESSELS (Union of South Africa) said that, having listened attentively to all the arguments advanced in the course of the debate, his delegation was still not convinced that a definition of aggression was either necessary or desirable. It was opposed to the adoption of a definition, at least for the time being, on the following grounds:
6. Aggression was an intensely practical matter, since it affected the lives of countless human beings, and a definition of aggression should above all be practical. Yet it was humanly impossible to devise a definition that could not be used by the aggressor to justify an act of aggression.

7. The weakness of any definition adopted by the General Assembly would be that it would not be binding either on the Security Council or on the General Assembly, which would always be free to alter it.

8. Many delegations did not want a definition; and among those that favoured it there was such a divergence of views, based on a difference in legal traditions, that even if a definition were adopted, it would not have the necessary moral authority to be of practical usefulness.

9. Lastly, he agreed with the United States representative that it would be premature to attempt to adopt a definition of aggression while the debate on disarmament was still in progress.

10. Mr. TARAZI (Syria) said, in reply to a statement made at the 414th meeting by the New Zealand representative, that, as the author of the texts that had later become the fourth and fifth paragraphs of General Assembly resolution 599 (VI), he had stated when replying to objections at the sixth session that the texts would not prejudice the future attitude of the General Assembly on the subject of aggression. That did not mean that the General Assembly had not firmly decided that it was both possible and desirable to define aggression, and he had said on the same occasion that the object of the Syrian texts had been precisely to lay down that principle. Various delegations might have the best of reasons for not wanting the General Assembly to adopt a definition of aggression; but they could not deny that the General Assembly had settled the question of the possibility and desirability of such an action.

11. He recalled that the Mexican representative had suggested (408th meeting) that a working group might be appointed to consider the various draft resolutions before the Committee. The suggestion had merit. However, if there should be any doubt about arriving at a definition acceptable to a large majority at the current session, he would propose the establishment of a special committee that would meet between sessions of the General Assembly and would submit a definition to the tenth session.

12. Mr. AKANT (Turkey) wished to explain his delegation's position on the question of defining aggression, with which the League of Nations had wrestled for a long time and to which the United Nations had devoted serious attention. The eminent jurists who had composed the Special Committee had been unable to agree on a definition, and, defeated by the complexity of the problem, had been forced to submit to the Sixth Committee individual proposals not adopted by a majority. Although the General Assembly had declared a definition of aggression to be both possible and desirable, the question remained whether such a definition was either necessary or useful in the present circumstances.

13. The supporters and opponents of the definition had for years been advancing every conceivable argument for and against, so that practically nothing could be added to the arguments for either side. It would serve no purpose to repeat them. As things stood, three of those arguments seemed sounder and more realistic than the rest: that it was impossible to arrive at an exhaustive list of cases of aggression; that an incomplete list presented obvious dangers; and that any definition could be twisted by the aggressor to justify aggression.

14. His country had signed and ratified the 1933 conventions for the definition of aggression, and still considered itself bound by them. Incidentally, those conventions were still open for accession by any States that desired to become parties to them. However, the fact that Turkey recognized those conventions as valid did not mean that they covered all possible forms of aggression, and Turkey felt that it had full freedom of action in all cases not provided for in those texts. As the Chinese representative had rightly mentioned, the Turkish delegation to the League of Nations had made an important contribution to the subject by advancing the idea of support of armed bands, which appeared in article II (5) of the 1933 Agreements and was currently cited by some delegations as an example of indirect aggression. All the examples mentioned in the conventions, however, formed only a selection of possible acts of aggression.

15. The drafters of the Charter had deliberately avoided defining aggression; as a consultation of source material showed (Report of Mr. Paul Boncour, Rapporteur at the San Francisco Conference), they had considered such an action impractical because a definition could never list all possible cases of aggression and might be used by the aggressor to his own advantage. Those reasons were still valid.

16. It was interesting to note that, when the United Nations first undertook the question of defining aggression—in considering agenda item 72 of the fifth session: “Duties of States in the event of the outbreak of hostilities, proposed by the Yugoslav delegation—the Yugoslav delegate himself in his speech in the First Committee on that item (387th meeting) had not attempted to draft a definition of aggression. In debate, various delegations had shown that each possible type of definition—general, enumerative and mixed—had its defects and disadvantages. He felt, therefore, that the solution of the problem was to be sought in the Charter itself, and that, however desirable it might be to find a definition, it was especially difficult to formulate one in the present circumstances.

17. Turning to the USSR draft resolution (A/C.6/L.332/Rev.1), he said that, although the addition of paragraph 5 had broadened the original USSR proposal somewhat, the definition remained unduly rigid. Under that paragraph, the Security Council could declare that acts not expressly referred to in the definition constituted aggression; but the Security Council operated under the unanimity rule—to which Turkey had objected during the United Nations Conference on International Organization at San Francisco—and could therefore be easily prevented from ruling that a particular act constituted aggression. The USSR proposal was inflexible, enumerative and mandatory, and he would vote against it.

18. Mr. KATZ-SUCHY (Poland) said that so many draft resolutions and suggestions had been offered during the past few days that a final analysis by his delegation had become necessary. The discussions to which the Special Committee’s report (A/2638) and the original Soviet proposal had given the first impetus had demonstrated that the great majority of the delegations considered it possible, desirable and useful to have the concept of aggression defined for the purposes of the Security Council and individual States. The debate had also, however, shown that there were divergences of views not only between the opponents of any definition whatsoever and those who favoured a text, but also between the various advocates of a definition. The Polish delegation certainly shared the view that the definition should be supported by the greatest possible majority, if not unanimously; but it also believed that the text should be neither vague nor ambiguous. It was imperative that the wording should not depart from the accepted principles of international law, and that the definition should provide a real weapon for the United Nations in its efforts to forestall future wars.

19. As the Polish delegation had frequently stated, a definition that departed from the basic science and practice of international law would not only serve little purpose but might easily be used by a potential aggressor in alleged justification of his acts. The danger of such a definition’s emerging had unfortunately not receded.

20. The Polish delegation had supported the Soviet proposal from the outset, believing that it represented a major effort to reconcile the varied views submitted throughout long discussions. The authors of the latest Soviet draft resolution (A/C.6/L.332/Rev.1) had made numerous concessions before submitting the text. Not only had they included forms of aggression other than armed attack, but they also inserted paragraph 5, stressing the freedom of action of the Security Council, in order to meet criticisms that the draft was excessively rigid. Furthermore, by an enumeration that would help to determine the aggressor and by listing the various pretexts that could never justify an act of aggression, the USSR draft resolution gave the definition a practical and easily applicable form that made it impossible to confuse aggression with self-defence.

21. The supporters of the Soviet text did not contend that it constituted the sole possible solution. But it was superior to all the other suggestions and views, both formal and informal, that had been presented. The text not only had the proper scope and adaptability, but it also conformed with the provisions of the Charter and recognized the needs of the existing situation. The other suggestions were neither practical nor adaptable, and they failed to provide against possible pretexts for aggression.

22. The area of disagreement was wide. Different views had been expressed as to the examples that should be listed, and while some insisted on limiting the definition to the notion of armed attack others advocated a wider approach. Nor was it generally conceded that it was the first attack that constituted aggression. The distinction that should be drawn between aggression and a threat of aggression presented a further problem. The Polish delegation had been among those which had stressed that a threat or an intent could never be accepted as justification for the use of force.

23. The mere fact that views had been so freely aired showed that the Committee had fulfilled some of the tasks that the Special Committee had failed to carry out. At least forty-five States had now voiced their opinions on the subject, and it was clear that the majority considered a definition both possible and necessary.

24. Many former opponents of any form of definition had, in the course of the debate, reconsidered their position. Some of those had even been members of the Special Committee. Unfortunately, that change of mind had not produced a stronger definition. Indeed, the new converts had merely infected the discussion with their doubts; the result was a number of weak, negative and ambiguous suggestions. The Netherlands and Greek representatives, in tendering their support, had done most to confuse the issue. The Netherlands representative had not even attempted to disguise his fears. After saying that it would be remarkable if a universally acceptable definition were agreed upon he had enjoined the Committee to strive for this allegedly unattainable objective (410th meeting). He had also implied that a threat of aggression was sufficient justification for the use of force. However, in selecting Hitler's ultimatum to Poland as an example of such aggression by threat, he had destroyed his own argument. In itself, that ultimatum had not justified any use of force. Aggression had been committed only by the overt armed attack that had followed the ultimatum.

25. Similar views were apparently held by the Paraguayan representative. His draft resolution (A/C.6/L.334/Rev.1) was unacceptable because it was both dangerous and in conflict with the principles of the Charter. It completely disregarded the question of chronological sequence in a conflict, opened the door to preventive war by speaking of "disturbance", and failed to enumerate the inadmissible pretexts for aggression. Most remarkable of all, however, the draft confined itself to the concept of armed attack, although the Latin American States had been the first to insist on the notion of indirect aggression.

26. The Polish delegation regarded with equal misgivings the joint draft resolution submitted by Iran and Panama (A/C.6/L.335). That document had taken a long time to prepare, and was the outcome of extensive consultations by its authors. It was consequently unfortunate that the document contained a number of statements that could not be accepted. Objectionable elements had been included and necessary factors omitted. Like the Paraguayan draft, the text failed to stress that it was the first attack that constituted aggression, although it had been repeatedly emphasized that unless that point was made clear the definition might lend itself to a construction in favour of the aggressor. The wording of the reference to self-defence opened up a similar danger. Furthermore, the draft did not list a declaration of war as an act of aggression and failed to enumerate the considerations that could not be invoked as justifying the use of force.

27. In view of the diversity of views and the resulting confusion, the Committee's primary task was to determine its immediate procedure. The prevailing international situation was such that a definition designed to contribute to peace and international collaboration was urgently needed. Agreement on a text would greatly assist the chances of further progress in the area of disarmament, where the prospects of construc-

tive achievement had recently improved. The Committee should consequently be doubly conscious of its duty to produce a definition that would not be prejudicial to peace or to growing understanding.

28. The establishment of a working party was a possibility, but the Polish delegation doubted whether, in view of the existing differences of opinion, such a working party could reach agreement during the current session. It had to be remembered that a resolution adopted by a small majority would not be sufficient. An acceptable text would be one that could subsequently be embodied in a convention. The Syrian proposal that a special committee should be established to report to the General Assembly at the tenth session had definite merits, as was indeed shown by past experience in the very question under consideration. The Polish delegation would be prepared to support any proposal that might facilitate agreement on a satisfactory definition, since it believed that the question was of the utmost gravity.

29. The CHAIRMAN said that the general debate on the question of defining aggression was concluded.

30. He invited comments on the various proposals before the Committee.

#### CONSIDERATION OF DRAFT RESOLUTIONS AND PROPOSALS BEFORE THE COMMITTEE

31. Mr. MAHONEY (United States of America) said that the USSR draft resolution (A/C.6/L.332/Rev.1) had been before the Committee for some considerable time and had been adequately discussed. He did not propose to make any further comments on it at the moment but would discuss the two draft resolutions submitted at the end of the general debate.

32. The joint draft resolution submitted by Iran and Panama (A/C.6/L.335) began with a paragraph that reproduced a paragraph from the preamble to General Assembly resolution 599 (VI). At its sixth session, it might have been appropriate for the General Assembly to express itself in favour of defining aggression in order both to promote international peace and security and to develop international criminal law. Nevertheless, those were two separate undertakings requiring different treatment and procedure. It was consequently regrettable that the joint draft resolution kept the two purposes together. As a result, it was doubtful whether the proposed definition was a definition of aggression relating to the international obligations of States or to the criminal responsibility of individuals, or to both.

33. The second paragraph of the preamble to the joint draft resolution spoke of "directives" to "such international bodies as may be called upon to determine the aggressor". The operative part of the text then began with the dogmatic term "declares . . .". The General Assembly could not, under the provisions of the Charter, give directives to the Security Council. It could not even bind future sessions of the Assembly itself. Moreover, if the "international bodies" included criminal tribunals, it was perfectly clear that no jurisdiction or directive could be given to them except by a duly ratified treaty.

34. Operative paragraph 1 of the joint proposal gave a general definition of aggression that purported to be inclusive. That feature was misleading and unfortunate. One consequence, among others, was that subversion

and indirect aggression as well as the economic aspects of aggression were disregarded. The paragraph also introduced the possibility of conflict with Article 2 (4) of the Charter. The Charter provision set up a different standard.

35. Operative paragraph 2 of the joint draft resolution enumerated certain acts to be considered as "aggression in all cases". That provision embodied the cardinal disadvantages of enumeration, by stating that certain acts should constitute aggression regardless of the particular circumstances of a given situation. The introductory phrase in operative paragraph 2 might perhaps be interpreted to mean that the listed acts were only examples, but the draft failed to make the point clear. Even if the list was only illustrative, the text would be a mixed form of definition; that form had been effectively disposed of by the United Kingdom representative in his statement at the 412th meeting. Moreover, the draft did not provide for the possibility of a State's being unable to suppress activities of armed bands, although the contingency had been foreseen in the Paraguayan proposal (A/C.6/L.334/Rev.1).

36. Operative paragraph 1 of the draft resolution introduced by China (A/C.6/L.336/Rev.1) purported to be a general definition. That statement, though apparently absolute in its terms, was quite obviously not exhaustive. The term "unlawful" begged the question. The rest of the paragraph carried the usual disadvantages of a mixed definition and included some rather vague terminology such as "fomenting civil strife".

37. Operative paragraph 2 of the Chinese proposal might have been intended as a modification of all parts of operative paragraph 1, although the relationship between these paragraphs was not clear. The enumeration in paragraph 1 was, in any event, dangerous. Operative paragraph 3 seemed unclear.

38. The United States delegation did not believe that the setting up of a special committee or working group would be a fruitful procedure. It would further protract the time the United Nations had devoted to considering a definition of aggression. Much private discussion had taken place among the delegations to see whether agreement could be reached on a common text. No prolongation of that process could be truly productive. The differences of view were on points of substance and fundamental. Consequently, the United States delegation believed that the Committee should proceed to vote on the draft resolutions that had been submitted. He shared the views of the New Zealand representative that any formula likely to emerge from the debate could only be the lowest common denominator and could be really satisfactory to very few countries, if indeed to any. The United States delegation would vote against all the proposed definitions and hoped that the General Assembly would now conclude that the question had been explored to the limits of usefulness.

39. Mr. CASTAÑEDA (Mexico) said that his delegation could not accept the Netherlands representative's suggestion (410th meeting) that the threat of force must be included in the concept of aggression. Although there was a distinction between threat of force and threat to the peace under Article 39 of the Charter, in most cases threat of force was also a threat to the peace and thus, as if it were an act of aggression, was subject to action by the Security Council. Furthermore,

although Article 2 (4) of the Charter prohibited the threat of force, that was not a sufficient ground in law for including the threat of force in the definition on an equal footing with the use of force. Article 2 did not cover aggression exhaustively—Articles 39 and 51 also contained essential provisions on the subject. Of course, in some cases the threat of force could be equal to the use of force. In the case of the occupation of Austria and Czechoslovakia it was debatable, for example, whether there had been threat or actual use of force. Hitler had occupied those countries without bloodshed, through the mere threat of his armed force. In that case, the threat of the use of force had been equivalent to the use of force and had constituted aggression. Such cases, however, would be a matter for the competent organ to decide by means of an intelligent and flexible interpretation of the definition. But that decision was not for the legislator to take, as he could not determine in advance in what cases the threat of the use of force was the equivalent of the use of force. The concept of threat of force itself had no place in a definition of aggression, and would indeed be most dangerous in view of its effect on the application and interpretation of Article 51 of the Charter.

40. As his delegation had explained in the Special Committee (A/2638, paragraph 63), the Security Council, in applying the definition, could be guided by the principle recognized in domestic law that self-defence was legitimate when the threat was accompanied by the beginning of the act. That had been the case in the aforementioned example of the invasion of Austria and Czechoslovakia. Another case would be a declaration of war without initiation of hostilities. While such a declaration did not actually constitute use of force, it was equivalent to the use of force inasmuch as in making such a declaration the State concerned gave unconditional notice of its intention to wage war.

41. The Netherlands representative had cited the principle adopted by the Atomic Energy Commission in its first report and later approved by the General Assembly at its third session (resolution 191 (III)) to the effect that some violations of the treaty on atomic energy control might be so dangerous that the other parties would be entitled to act in legitimate self-defence. In the Mexican representative's view, legitimate self-defence in that case, in view of the principle that defence must be proportionate to the magnitude of the attack, must mean that the other parties would be released from their corresponding obligations under the same treaty, and would also give grounds for the impositions of the sanctions prescribed therein. But a violation of that treaty could not justify an armed attack on the State guilty of the violation. Moreover, the principle had been adopted by the General Assembly merely as a guide for the preparation of future international conventions on the subject. Those conventions themselves would stipulate the exact legal consequences of their violation.

42. Lastly, when the Netherlands had declared war upon Japan, it had done so not so much in self-defence against a threat of the use of force as in the exercise of the right of legitimate collective defence, inasmuch as its allies had been first attacked by Japan. Incidentally, that example demonstrated the appropriateness of the principle that the aggressor was the State that committed the first act in an international conflict. The

principle of the initial act was very important, and, try as it might, the Committee could not disregard it. For example, the principle was implied in the Paraguayan draft, which stated that a State committed armed aggression if it "provoked" a breach or disturbance of the peace.

43. In the Paraguayan draft (A/C.6/L.334/Rev.1), operative paragraph 1 might give the impression that employment of armed force for purposes other than those listed might be legitimate, and aggressors might invoke it to claim—as they had so often done in the past—that they were using armed force for the benefit of, not against, the people of another State. Further, the meaning of the words "sovereignty and political independence" was not clear. Lastly, he agreed with the Israel representative's objections to the provision regarding Non-Self-Governing Territories.

44. His main objection to the proposal was, however, that it was not a mixed definition, which most members of the Committee, including himself, favoured. Although a non-exhaustive list of examples was not strictly necessary from the legal point of view, the definition not only would be a legal text but would serve as a political guide to the competent organs. Not only would the list of examples make the definition more understandable to the peoples of the world, but it would facilitate the Security Council's task of applying it, even though it would not be applied automatically.

45. The USSR proposal (A/C.6/L.332/Rev.1) had good and bad points. Its basic defect was that it contained no general definition of the concept—a concise statement of the essential and characteristic features of aggression—giving a proper legal frame of reference that would make it possible to apply the enumeration to specific cases. He could not, furthermore, accept paragraph 5 of the proposal, which, as he had explained earlier, almost seemed to authorize the Security Council to disregard the definition. The freedom of judgment of the competent organs might better be covered by some such provision as that the definition could not prejudice the power of decision and judgment of the organs concerned under the Charter. Lastly, he could not accept paragraphs 2, 3 and 4 of the USSR proposals—dealing with so-called economic, ideological and indirect aggression—which widened the concept of aggression far beyond its basic meaning: the use of force. This was a dangerous method in view of its effect on the interpretation and application of Article 51. He could not agree with the USSR representative that the term aggression had a narrower meaning in Article 51 than in Article 39. The meaning of the term was the same throughout the Charter.

46. On the other hand, he fully supported the provision of paragraph 6 of the USSR draft, which was perhaps more valuable politically than legally. The list of pretexts that could not be used to justify the use of force amounted virtually to the principle of non-intervention as recognized by the States of the American hemisphere.

47. If the USSR representative could amend his draft resolution in the light of those important objections, the Mexican delegation would support the proposal.

48. The joint draft resolution submitted by Iran and Panama (A/C.6/L.335) was, in his opinion, the best.

His objections to it were brief and not basic. First, he suggested that the concept of the use of force might be limited by a reference to the political independence and territorial integrity of States, in conformity with Article 2(4) of the Charter. Secondly, the draft resolution should include a provision regarding the initial act in the general part of the definition, as was the case with the USSR proposal, rather than in the list of examples.

49. On the whole, the joint draft seemed to be an improvement on the USSR proposal, although it lacked some of the features of the latter text, which could be incorporated—in particular, paragraph 6.

50. He would deal with the Chinese draft resolution (A/C.6/L.336/Rev.1) at a later time.

51. With reference to the procedure to be followed by the Committee, he recognized the merit of the suggestion made by the Syrian representative although he felt that a last effort should be made at the present session. In view of the increasing number of representatives who supported a definition, it might be possible to work out a text even at the current session. Accordingly, the Committee might decide to set up a working group composed mainly of the representatives of States that had presented proposals or suggestions to the Special Committee or to the Sixth Committee. The working group might be instructed to draft a definition taking into account the various proposals and suggestions before the Sixth Committee, as well as the following considerations based on the five preliminary questions the Israel representative had raised (412th meeting), namely: first, that the definition should include the use of force only, and not threat of force or indirect, economic and ideological aggression; secondly, the definition should contain a general abstract formula; third, the definition should include a non-exhaustive list of examples; fourthly, the definition should include a clause to the effect that the definition did not prejudice the freedom of judgment and decision of the competent international organs; and fifthly, the definition should express the idea that no political, economic or social considerations could be used as a justification for acts of aggression. Lastly, it would be understood that a decision on those five points would not prejudice the position representatives subsequently might take on individual drafts in the working group, the Sixth Committee or the General Assembly.

52. The five propositions naturally reflected his own delegation's views on the preliminary questions the Israel representative had raised. However, if the Committee wished, it could answer those questions differently. His only purpose in changing the questions to positive statements had been to permit the General Assembly to express its opinion on them in whatever way it chose.

53. Mr. MAURTUA (Peru) thought that the Mexican representative's proposal was undesirable because it would mean that the texts would be discussed in a small group and because it would result in two debates, first on principles and then on the drafting.

The meeting rose at 6.5 p.m.