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New York

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

**Organization of the work of the Committee**

1. Sir Gerald FITZMAURICE (United Kingdom), speaking on a point of order, asked that in future the Committee should as far as possible not meet more than four times a week, as had been its practice.
2. A meeting had had to be adjourned during the current week because the Chairman had been unable to attend and the Vice-Chairman had been unable to replace him. The Committee had lost valuable time, and he proposed that, in future, the Rapporteur should take the Chair if both the Chairman and the Vice-Chairman were absent.
3. The CHAIRMAN stated that arrangements had been made for the Rapporteur to take the Chair if both the Chairman and the Vice-Chairman were absent.
4. He added that, although a meeting had been scheduled for the next day (Friday), he was prepared to cancel it if the Committee so decided. Perhaps the decision on that point would be left until the end of the meeting, by when it would be known whether any representatives wish to speak at the Friday meeting. The Secretariat had scheduled only four meetings for the following week.

**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 A/  
2689/Add.1, A/C.6/L.332/Rev.1 (continued)**

**GENERAL DEBATE (continued)**

5. Mr. KATZ-SUCHY (Poland) briefly summarized the main points of the statement that he had been unable to complete at the preceding meeting. He had pointed out some of the reasons why it was vitally important to define aggression in the interests of the peace and security of mankind. He had also stressed that, the main purpose of a definition of aggression being the maintenance of international peace and security, aggressive intent or threat of the use of force could not be covered by the definition. He hoped that the relaxation of international tension would help to produce a change of mind in those who had in the past

been sceptical of the desirability of a definition of aggression. Such a definition was a fundamental element of any system of collective security. The question should be discussed in a serious frame of mind, and he hoped that the polemical note introduced at the preceding meeting by the United Kingdom representative would not characterize future debate.

6. Some members, including the Brazilian representative, had said at the 405th meeting that a definition of aggression could be included only in treaties among (for example) the American States—in other words, States whose relations were friendly. The United Kingdom representative had said that aggression was undefinable and that in any case a definition would be useless and dangerous, except perhaps at the regional level. He disagreed with those statements; experience had shown that it was possible and often desirable to conclude multilateral treaties relating to several regions or to countries that were not necessarily bound by ties of friendship. The provisions of Article 52 of the Charter supplemented the more general provisions concerning the system of collective security. The United Nations had not been set up for the exclusive benefit of a particular region.

7. Armed aggression was the most dangerous form of recourse to force; but the other forms, indirect, economic and ideological aggression, were equally incompatible with international peace and security and friendly relations among nations.

8. He made some reservations with regard to the Mexican and Bolivian proposals. The Mexican proposal (A/2638, annex, IV) did not take into account the principle that the State that first resorted to force should be regarded as the attacker; it neglected to take into account indirect, economic and ideological aggression; and a further implication of the Mexican proposal was that the important provision concerning the function of the Security Council would be dropped, whereas that provision was material, for no definition could provide for all possible cases of aggression. The Bolivian proposal (A/2638, annex, V) likewise did not specify that the country that first resorted to force was the attacker—a fundamental principle; moreover the proposal was much less clear than the USSR draft resolution (A/C.6/L.332/Rev.1). The essential feature of the USSR draft, the feature that was more prominent than all others, including the passages describing the nature of the act of aggression, was that it spoke of the “attacker that first commits” the act in question.

9. Unlike some representatives, he thought that actions by arms should be enumerated in their chronological order, with the emphasis on the element of first resorting to military action, even though the same actions could also be taken by a State in self-defence. That view was also in conformity with the provisions of Article 51 of the Charter.

10. The enumeration in the USSR proposal (A/C.6/L.332/Rev.1) was the fullest ever prepared. The

proposal mentioned the serious forms of indirect, economic and ideological aggression and, quite rightly, expressly referred to the powers of the Security Council—the only organ specifically responsible, under the Charter, for the maintenance of international peace and security—to apply the definition and to cover cases not included in it, for no definition, however complete, could provide for all possible acts of aggression.

11. In reply to the French representative's remark at the 405th meeting that a definition of aggression could be effective only in the case of unanimity among the permanent members of the Security Council, he pointed out that the whole structure of the United Nations was based on the principle of unanimity.

12. He was not in a position to speak on the Panamanian proposal (406th meeting), which had not yet been submitted in the form of a draft resolution. He was glad, however, that the draft emphasized the need for a definition of aggression, and he hoped that, in its final form, it would also stress the fundamental factor of the priority of actions by arms in the order of events.

13. In reply to the United States representative's argument at the 404th meeting that it was not desirable to adopt a definition of aggression at the moment because only ten years previously the San Francisco Conference had decided not to define the term, he said that the problem had to be tackled in order to promote the development of international law, which had advanced since 1945. The question of defining aggression had been studied and discussed for thirty years. It was now incontrovertibly established that such a definition was possible and desirable and that its adoption would help to lessen international tension and to discourage aggression. A definition of aggression was especially necessary now that the problem of disarmament and of the prohibition of weapons of mass destruction was entering a new phase. The definition proposed in the USSR draft resolution was fully in keeping with the needs and the trend of the theory and practice of international law.

14. It was universally recognized that the armaments race had to be stopped, that respect for international obligations, international law and non-intervention in the domestic affairs of States must be taught anew, and that international co-operation and peaceful relations among nations should be encouraged. The Sixth Committee would be making a valuable contribution to the work of the United Nations if it succeeded in adopting a definition of aggression during the current session.

15. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics), while reserving the right to speak on substance later, wished to protest forthwith against the United Kingdom representative's attempt, at the preceding meeting, to sidetrack the discussion and to undermine the efforts of the great majority of the Committee to reach mutual understanding.

16. The United Kingdom representative, who had made wild allegations against the Soviet Union two years previously, had again made similar allegations. The charges had been answered at earlier sessions and called for no fresh reply. Besides, the Polish representative had dealt with the allegations thoroughly.

17. The United Kingdom representative had made the most surprising assertion that a definition of ag-

gression might be used as a propaganda weapon in the cold war. Surely it was justifiable to criticize that assertion itself as likely to revive the cold war. The Soviet Union delegation would not carry on debate at that level but would continue to do its utmost to see that the discussion remained orderly and serious; and it regretted that the United Kingdom representative had not responded to the appeal for harmony made by the French representative.

18. Admittedly, a definition of aggression would not be a panacea. He had never maintained that it would. When he had submitted his delegation's draft resolution (A/C.6/L.332/Rev.1), he had made it quite clear that the definition of aggression would be only one of the important means of maintaining international peace and security.

19. The United Kingdom representative's statement contained two inconsistent arguments. After saying that a definition of aggression had to be satisfactory—implying that one was possible—that representative had then devoted the rest of his statement to trying to show that a definition was impossible. Worse, his arguments had not been founded on law. Surely it would have been preferable, more logical, and more constructive to state what, in the United Kingdom's view, the nature and terms of a definition should be.

20. He was glad to note at that early stage of the debate that Committee members tended to admit the need for a definition of aggression, and he hoped that the debate would be carried on in a calm atmosphere in which the Committee could successfully complete its work.

21. Sir Gerald FITZMAURICE (United Kingdom), welcoming the Soviet Union representative's appeal for harmony, replied that the reference to certain historical events in his earlier statement had been entirely relevant. He had had to reply to the USSR representative's arguments by recalling that the inclusion of a definition of aggression in some treaties to which the Soviet Union had been a party had not prevented that country from carrying out acts of aggression and even of annexation.

22. Replying to the Polish representative, he said that he appreciated the latter's embarrassing position whenever any reference was made to Poland's former struggles for the cause of freedom. He had to protest most strongly against the charge, levelled against the United Kingdom, of culpable inaction at the time when Hitler had invaded Poland, and also against tendentious inquiry into responsibilities for the origins of the Second World War. It was universally agreed that Hitler had been solely responsible. And if some countries might be open to a charge of responsibility for inaction, he would remind that representative of the part played by the Soviet Union, which had not confined itself to inaction, but had at a crucial moment concluded a treaty with Germany that had had a direct effect on the opening of hostilities.

23. Mr. KATZ-SUCHY (Poland), in reply to the United Kingdom representative, said that Poland had never been more independent than at the moment and had never fought so vigorously for the cause of freedom. His reason for referring to the opening of hostilities in 1939 had been to reply to some inaccuracies in the United Kingdom representative's statement. He went on to recall the efforts made by the USSR before

the Second World War to prevent the opening of hostilities.

24. Mr. TARAZI (Syria) said that the question of the possibility of defining aggression had been settled. It had been settled in the affirmative, and the matter had acquired the force of the *res judicata* after the General Assembly had adopted the fourth and fifth paragraphs of the preamble to its resolution 599 (VI).

25. The definition of aggression was no wild dream. It was based on the principle, enshrined in the United Nations Charter, of the prohibition of recourse to force. That view was supported by the statement, made in a book by Professor Hans Wehberg, to the effect that the ban on the use of force applied not only to the United Nations but had become an integral part of general international law. Some maintained the view that the prohibition of force was undesirable and that war was in some sort inevitable. That view was selfish and wrong. Professor Georges Scelle had said<sup>1</sup> that war was not a congenital disease of human societies.

26. At the previous meeting the United Kingdom representative had stated that the draft definition submitted by the USSR was a weapon in the cold war, adding that some countries, in particular those of the Middle East, took a favourable view of that definition. Surely he did not mean to insinuate that those countries should be regarded as fellow-travellers of the Soviet Union; they were not. The very principles on which the United Nations was based enabled any Member State to support any suggestion, regardless of the political or economic system of the State that made it.

27. In the same statement, the United Kingdom representative had proposed the establishment of regional arrangements. Despite the aggression, of foreign inspiration, that had been committed in Palestine, there seemed no good grounds for the peoples of the Middle East to harbour mutual suspicions. Foreign Powers should, however, respect the wishes of those people, who, out of quite understandable caution, intended to remain aloof from overt acts in the cold war and had, of necessity, to press for a definition of aggression, as there was a too common tendency to describe as aggression their efforts to free themselves from foreign occupation of all types.

28. The draft resolution submitted by the Soviet Union could no doubt be improved, but it was an important contribution to the Committee's appointed task. The enumerative form of definition had been criticized; but, as the Egyptian Government had pointed out in the comments it had sent to the Secretary-General (A/2162 and Add.1, section 5) the constant evolution of the various forms that aggression might take should be no obstacle to defining the consistent elements of that crime and giving examples of them. With regard to indirect aggression, some formula upholding the principle of non-intervention should be adopted.

29. In essence, economic aggression was a form of infringement of State sovereignty.

30. Such infringement should be prohibited; measures taken by one State to prevent another State from exploiting its own natural resources or from nationalizing domestic undertakings — even if foreign capital was invested in them — should be defined as aggression.

Contrary to what the Brazilian representative had said (405th meeting), the principle of the prohibition of economic aggression could be shown to derive from certain provisions of the Charter, in particular from the fourth paragraph of the Preamble and from Article 55.

31. The Syrian delegation supported the provisions of the USSR draft resolution that prohibited ideological aggression. It was possible to endorse that idea without doing violence to the civil liberties recognized by democratic systems. For example, in Syria two films had been banned as being offensive to coloured peoples or favourable to imperialism and racial discrimination.

32. The dictum, attributed to the *Conseil d'Etat* of the French Republic, that there could be no public order without freedom and no freedom without public order, should be extended to universal public order, the prerequisite for the maintenance of human civilization.

33. Mr. SASTROAMIDJOJO (Indonesia) said that, in attempting to define the idea of aggression, four important factors should be taken into account: the political philosophy of the *auctor intellectualis* of the concept of aggression; the purposes and principles of the two world organizations that had used the term "aggression" in their fundamental instruments; the development of the use of the concept of aggression in positive international law; and the existing political situation.

34. The political ideas of President Wilson, who had been the first to introduce the term "aggression" into international law, emerged clearly from his speeches and official correspondence, from which Mr. Sastroamidjojo cited several extracts. They showed, as Mr. Sumner Welles concluded in his book, *The Time for Decision*,<sup>2</sup> that Woodrow Wilson had been a democrat and a staunch anti-imperialist who denounced not only all forms of classic imperialism but also domination by financial or commercial interests. Obviously, with a concept of that kind, President Wilson could have construed the term "aggression" to mean only the will to dominate, the will to impose one's will upon others by armed force or by other means. That was not surprising, since Wilson's political ideology had in fact been based upon or influenced by the Monroe Doctrine, the two basic principles of which were equality of sovereignty of all American republics and non-intervention of any kind in the internal or foreign affairs of any American republic by any other State. Hence, so far as State sovereignty was concerned, a clear distinction between respect for territorial integrity and respect for political independence was found in all Wilson's statements.

35. That idea had been expressed in Wilson's address of 27 May 1916 to the League to Enforce Peace, in which he had announced the three fundamental principles for a future League of Nations: first, the right of self-determination of peoples; second,<sup>1</sup> respect for the sovereignty of States, meaning respect for their political independence and territorial integrity; and, third,<sup>1</sup> the right of the world to be free from every disturbance.

36. The same idea had also been expressed in President Wilson's famous Declaration of Fourteen Points of 8 January 1918 and had been included in Article 10 of the Covenant of the League of Nations, which

<sup>1</sup> Georges Scelle, *Précis de droit des gens — Principes et systématique*, (Librairie du recueil Sirey, Paris, 1932 & 1934).

<sup>2</sup> Sumner Welles, *The Time for Decision*, Harper Brothers, New York and London, 1944.

provided that "the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League". The terms of that provision were quite clear. First, in view of Wilson's political ideas, the words "to respect" could not have any other meaning than "not to damage", "not to injure", "not to use pressure", "not to dominate or subjugate". Secondly, the words "to preserve" could not but mean "to defend", "to guarantee" or "to maintain". Thirdly, the clause drew a logical distinction between the two elements of sovereignty: territorial integrity, which could be damaged by armed aggression, and political independence, meaning the direction by a State of its own internal and external affairs, which could be damaged by means other than armed force. To sum up, the word "aggression" as used in Article 10 of the Covenant obviously denoted aggression in all its possible forms.

37. Various instruments negotiated since 1919 contained articles relating to aggression or to the prohibition of recourse to war along the general lines of Article 10 of the Covenant: in particular, articles 2 and 10 of the Geneva Protocol (2 October 1924), article 2 of the Locarno Treaty of Mutual Guarantee (16 October 1925) and articles 1, 2 and 3 of the Briand-Kellogg Pact of Paris (27 August 1928). Wilson's ideas, as expressed in Article 10, also recurred in Articles 1 (paragraph 1), 2 (paragraphs 4 and 7) and 39 of the United Nations Charter.

38. The second factor to be taken into account in studying the question of defining aggression was the identity of the purposes and principles of the League of Nations with those of the United Nations. The latter organization was only continuing the work of the former, with which it was ideologically linked in the sense that, besides being responsible for the maintenance of international peace and security and the promotion of international co-operation, it also had the duty to prohibit and condemn any act committed by a Government with the purpose of imposing its will upon other Governments.

39. With reference to the third factor, he drew attention to the fact that the term "aggression", in the sense just given to it, had been used in a number of treaties between 1921 and 1948, and he mentioned some of those treaties, and referred also to provisions adopted by the Pan-American Conferences, particularly the Charter of the Organization of American States, signed at Bogotá on 30 April 1948. In all the articles dealing with the notion of aggression, the term "aggression" was not used in its ordinary sense: violence or the use of armed force was not an indispensable element of an act of aggression. In his opinion, that point of view was perfectly justified, for aggression in international law was obviously different from aggression in the ordinary sense of the word. The same applied to the notion of "war". One could speak of "cold war", or of "economic war", but that did not mean "war" as understood by international law.

40. In the opinion of the Indonesian delegation, the most satisfactory expression of Wilson's conception was to be found in a combination of articles 15 and 16 of the Charter of Bogotá. Those two articles dealt not only with physical coercion by the use of armed force, but also with all other forms of interference in the internal and external affairs of States. Military,

economic and ideological forms of aggression were prohibited in both articles.

41. The question had often been asked whether an aggressive economic policy was possible, and he observed that, according to Paul Einzig,<sup>3</sup> coercive measures of an economic character should be taken to launch an economic offensive, which meant aggression, against the enemy in wartime. The objective of such a policy was to weaken the enemy's economic resources by destroying his supplies and preventing him from replenishing them. That could be done, for example, by means of a blockade, a boycott against neutral firms trading with the enemy, diplomatic pressure on neutral countries and, in a general way, by the diversion of the enemy's trade with neutrals. Again, according to Einzig, such an "offensive" economic policy could also be pursued in peacetime, for example, by an embargo on credits to the enemy, a boycott against his imports, and an embargo on sales of certain essential war materials to the potential opponent. All those measures, which might be regarded as justified in time of war, could be considered as acts of aggression in time of peace.

42. Lastly, so far as the fourth factor — the world political situation — was concerned, it was undeniable that, although both large and small States were still accusing each other of acts of aggression, international tension had somewhat diminished in the past two or three years. Furthermore, public opinion certainly carried more weight in world affairs than in the pre-war years; and public opinion condemned, much more openly than before, any attempt on the part of one State to dominate another. It was therefore a force that a would-be aggressor would have to reckon with.

43. A definition of aggression could have a preventive effect, even though, at the present stage of civilization, it could be only a purely moral preventive. States that might in the past have committed acts falling under the definition of aggression should not be in any way concerned, since the definition would probably not be retroactive.

44. Some representatives had said that it was impossible to define aggression, because the idea of aggression was a political concept. Admittedly, aggression was a political concept in the sense that the term "aggression" was used in the constitutions of political organizations such as the League of Nations and the United Nations, and it was the function of a political body such as the Security Council to determine whether or not there had been an aggression; but he could not accept the view that the interpretation should vary according to the interests of the States concerned.

45. Others had contended that political considerations should be disregarded in defining aggression, and that what mattered was the spirit of the United Nations Charter. His delegation shared the dissenting opinion expressed by six members of the International Court of Justice in connexion with the advisory opinion on the question of the admission of a State to the United Nations:<sup>4</sup> those dissenting judges had been of the opinion that, in the interpretation of Article 4 of the Charter, political considerations could be taken into account, since the General Assembly and the Security-

<sup>3</sup> Paul Einzig, *Economic Warfare*, MacMillan, Ltd., London, 1940.

<sup>4</sup> *Admission of a State to the United Nations (Charter, Art. 4), Advisory Opinion: I.C.J. Reports, 1948, p. 57.*

Council, which had the final decision in the matter, were purely political organs. The situation was almost identical in the case of aggression: a strict interpretation of the term was against the letter and spirit of the purposes and principles of the two world organizations in which it had been and was being used.

46. In conclusion, he stated that the position of the Indonesian delegation had not changed since 1951. It suggested that the Committee should study the possibility of adopting a definition along the lines of articles 15 and 16 of the Charter of Bogotá. By way of example, he gave the text of such a definition in four articles. To facilitate the work of the competent United Nations organs that would be expected to determine whether or not aggression had occurred, a list of "clear-cut" cases of aggression, as suggested by the USSR draft, could be added to the general list. In any case, the definition to be adopted, whether it was an abstract formula or an enumeration of acts or a combination of both, should lay the emphasis upon the ultimate aim of the aggressor State—to impose its will upon another by coercion, whatever the means employed for that purpose.

47. He would support any definition compatible with the ideas he had expressed and he reserved the right to submit amendments and draft resolutions subsequently.

48. Mr. FOURNIER (Costa Rica) said his delegation wished to do all it could to help to define aggression. It fully realized that a definition would not be a panacea for universal peace and would not bind the Security Council, but it thought such a definition would be a valuable guide to the Council and to the courts and authorities that would subsequently have to deal with cases of aggression.

49. The United Kingdom representative had said at the previous meeting, in substance, that the various delegations had been speaking of different things when they discussed the problem of defining aggression. Some had looked at the question from the regional and others from the universal point of view. It was true that all delegations argued from slightly different premises, but that was not due to their different ways of looking at things, as the United Kingdom representative had affirmed; it was rather the expression of the different concepts underlying the two great legal systems of the world. Thus, when the United Kingdom representative stated that in his opinion the existence of aggression could be determined not by applying rules but by taking the special circumstances of each case into consideration, he was merely applying the criteria of Anglo-Saxon law, as opposed to the system of codification. The result of adopting the United Kingdom representative's argument would be to deny the value of

definitions in general and to question not merely the possibility of dealing with the matter before the Committee, but the whole system of codification. In that connexion, he recalled the statement by the Norwegian representative in the Special Committee (A/2638, paragraph 90).

50. Furthermore, the United Kingdom representative had pointed out that the USSR, which advocated the adoption of a definition of aggression, had been one of the countries that had committed many acts of aggression against their neighbours. While the truth of that statement could not be questioned, it was nevertheless the case that that argument could not be regarded as justifying the rejection of the idea of a definition, for the logical outcome of such an attitude would be to maintain that it was useless to prohibit war because States still resorted to war and, in the last resort, to deny the value of the whole system of international law.

51. The Sixth Committee must therefore give a definition of aggression: it was bound to do so by the very terms of the categorical resolutions adopted by the General Assembly.

52. An abstract definition would be too vague, while an enumeration would inevitably omit certain forms of aggression. The Costa Rican delegation was therefore in favour of a mixed definition like that suggested at the previous meeting by the Panamanian representative.

53. He himself did not think the definition to be adopted should contain the ideas of "economic" and "ideological" aggression. Such ideas were still unfamiliar, and, as the United Kingdom representative had said, it was in a way a misuse of language to apply the word "aggression" to an act covered by the expressions in question. The acts were illegitimate and must be condemned by international law, but it was questionable whether they could be included in the idea of aggression.

54. He therefore hoped that the Panamanian representative would formally submit the proposal of which he had indicated the content at the 406th meeting, and which the Costa Rican delegation was ready to support.

#### *Organization of the work of the Committee (continued)*

55. The CHAIRMAN stated that only two representatives had asked to speak the next day. If the two representatives concerned had no objection, the next day's meeting could be cancelled and the Committee could meet again on Monday, 25 October.

*There being no objection, it was so decided.*

The meeting rose at 12.55 p.m.