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Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).

AGENDA ITEM 89

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations: report of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (*concluded*) (A/7619; A/C.6/L.781, A/C.6/L.784)

1. Mr. EL-REEDY (United Arab Republic), speaking in exercise of his right of reply, recalled that at the 1163rd meeting the Israel representative had accused the Arab delegations of introducing irrelevancies into the present debate by their references to the Middle East question. On the contrary, those references were highly relevant, inasmuch as the Middle East situation was a blatant example of the violation of the principles of international law concerning friendly relations and co-operation among States.

2. At the 1160th meeting, the Israel representative had also made grave accusations against the Arab States and had alleged that the United Arab Republic had been responsible for starting the June 1967 war because of the withdrawal of the United Nations Emergency Force, the concentration of Egyptian forces in the Sinai region before the outbreak of the war and the measures it had taken concerning the Straits of Tiran. The Israel representative had said that those acts constituted acts of aggression pure and simple, by any definition. Unfortunately, that statement had not been accurately reflected in the summary record, in which the acts in question were referred to as "a further indication of the aggressive spirit of the Arabs". The actual accusations made by the Israel representative had been adequately refuted by the United Arab Republic delegation at the same meeting. He now felt it his duty, however, to refute the allegation reproduced in the record making reference to "the aggressive spirit of the Arabs" That

reference reflected the prevailing theory of the legitimacy of preventive war, as advanced by Israel. Article 51 of the Charter did not cite an "aggressive spirit" as justification for the use of force in self-defence. If it was accepted as a principle that any country was justified in making war on its neighbours because it felt that the latter had an aggressive spirit, the result would be universal political anarchy.

3. On the other hand, it was true that tension and a spirit of aggression had long prevailed in the Middle East, but that was because for the past twenty years Israel had kept the Palestinians from their homeland and had pursued a policy of expansionism and unilateral denunciation of international agreements. The starting point of the events preceding the June 1967 war had been Israel's systematic threats against Syria and Jordan. In that connexion, he drew attention to the report of the Secretary-General on the situation in the Near East dated 19 May 1967,¹ and in particular to paragraph 8 of that document, which stated that "intemperate and bellicose utterances" by officials and others had at that time become more or less routine on both sides of the lines in the Near East but that reports emanating from Israel had attributed to some high officials in that State "statements so threatening as to be particularly inflammatory in the sense that they could only heighten emotions and thereby increase tensions on the other side of the lines". Far from being innocent of contributing to the tension prevailing in June 1967, Israel had in fact been mainly responsible for it.

4. The highest officials of the United Arab Republic had made every endeavour to have the Security Council persuade Israel to give effect to and strengthen the Armistice Agreements. The Secretary-General of the United Nations had been assured by both President Nasser and the Foreign Minister of the United Arab Republic that their country would not attack unless it was attacked first. Israel had launched the 1967 June war not because it had been attacked but, as was now quite clear, in order to further its Zionist racist policies by territorial expansion. That was corroborated by Israel's public statement of its intention to perpetuate its occupation of Jerusalem, the Golan Heights, almost one half of the Sinai Peninsula and the West Bank of the Jordan. It must be noted that the Israel representative in the Sixth Committee had not repeated the false accusation which Israel had made in the Security Council on 5 June 1967, alleging that the United Arab Republic forces had launched an armed attack. At that time, Israel had attempted to deceive the Council with the suggestion that it was acting in accordance with Article 51 of the Charter. The Israel representative had been unable to repeat that accusation simply because the entire world knew that

¹ *Official Records of the Security Council, Twenty-second Year, Supplement for April, May and June 1967, document S/7896.*

it was untrue. It was therefore clear that the war on which Israel had embarked in June 1967 was a classic case of premeditated aggression for the purpose of achieving territorial expansion and in pursuit of its colonial and racist designs.

5. Mr. NALL (Israel) said that, since he did not wish to engage the Sixth Committee in a debate on matters extraneous to the substance of the agenda item under consideration, he would merely refer delegations to the statements on Israel's position that had been made in other bodies of the United Nations, and in particular to the statement by the Israel Minister for Foreign Affairs at the 1757th plenary meeting of the General Assembly, on 19 September 1969. No distortion could alter the fact that the United Arab Republic had committed aggression, or its responsibility for the war in 1967.

6. Mr. EL-REEDY (United Arab Republic) said it was clear that the Israel representative was unable to refute the accusation that Israel had started the war of aggression of June 1967. The statement by the Israel Minister for Foreign Affairs to which the Israel representative had referred was merely a reaffirmation of Israel's intention of persisting in its policy of expansion.

AGENDA ITEM 88

Report of the Special Committee on the Question of Defining Aggression (A/7620)

7. The CHAIRMAN drew the Committee's attention to the report of the Special Committee (A/7620) and in particular to the fifth preambular paragraph and the operative paragraph of the resolution reproduced in paragraph 80 of that report.

8. Mr. THOMPSON (Guyana) said that his delegation welcomed the modest progress which had been achieved at the Special Committee's 1969 session in the arduous task of identifying the sociological phenomena described by the term "aggression". The views expressed in the Soviet Union and the thirteen-Power proposals (see A/7620, paras. 9 and 10) had gradually been assimilated, and, with the submission of the six-Power draft (*ibid.*, para. 11), the number of countries which had sponsored a draft definition of aggression had reached the substantial total of twenty-six, representing nearly all the world's main civilizations and its principal legal systems. That seemed to mark the end of the debate on the desirability and usefulness of a definition of aggression. Generally speaking, the proposals before the Special Committee indicated a preference for an analytical and descriptive kind of definition.

9. His delegation would confine its remarks to the six-Power draft. It had already commented on paragraph II of that proposal and would deal with selected aspects of the remainder. It would postpone to some later time any further observations it might wish to make on the six-Power draft and on the relationship of that draft to other proposals before the Special Committee.

10. The function of a definition was to identify and distinguish between types of phenomena to which the defined term was applied. Consequently, in formulating a definition, it was necessary to consider the realities which words were used to describe as much as the words

themselves. Paragraph I of the six-Power draft did not meet the functional criteria he had in mind, since it defined "aggression" in terms of the propriety of its applicability, not to certain identifiable sociological phenomena, but rather in so far as a specific social institution was concerned. The Special Committee must therefore decide what type of social situations the term "aggression" should be used to describe. Moreover, the paragraph seemed to minimize generally accepted views regarding the gravity of aggressive conduct.

11. A further defect was its implication that the General Assembly was not competent to determine that an act of aggression had been committed. His delegation did not see anything in the United Nations Charter to support that view. The only difference between the General Assembly and the Security Council in that respect was that the General Assembly was not bound to make a determination on the subject and that, if it did, the resulting recommendation was not binding on Member States, whereas the Security Council had a duty to determine the existence of an act of aggression, and its recommendation or decision in the matter was binding. His delegation believed that the intention of the sponsors of the six-Power draft was to recognize the limited competence of the General Assembly to make non-binding recommendations concerning the use of force. If so, paragraph I should spell out the limited competence of the General Assembly to determine that an act of aggression had been committed. However, it did not do that; instead, it confused the issue rather than simplifying it and should therefore be deleted.

12. With regard to paragraph III, the decisions and authorization to which it referred would presumably follow a determination concerning the existence of a threat to the peace, breach of the peace or act of aggression. If so, the word "recommendations" should be added. That was because the terms "decision" and "authorization" could apply only to determinations by the Security Council, and, as he had said, Guyana believed that the six-Power draft was intended to recognize the limited competence of the General Assembly concerning the use of force and that the words "competent United Nations organs" in paragraph III were therefore meant to include the General Assembly. His delegation disliked the juxtaposition of the words "competent United Nations organs" and "regional organizations", because of the implication that the competence of the latter was to be assimilated to that of the former. The Charter clearly specified the complementary and derivative competence of regional organizations concerning the use of force.

13. His delegation objected to the six-Power draft generally, on the ground that it tended to place the *onus probandi* on the victim of aggression by emphasizing the psychological aspects of aggression—the *animus aggressionis*—at the expense of the material elements. The other drafts before the Special Committee recognized both the psychological and the material ingredients of an act of aggression and placed the burden of proof on the State which first resorted to force. In other words, they raised a rebuttable presumption of guilt against that State. His delegation preferred that approach because of the grave consequences of armed confrontation between States.