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**CONTENTS**

	Page
Agenda item 88: Report of the Special Committee on the Question of Defining Aggression (continued) .....	355

**Chairman: Mr. Gonzalo ALCÍVAR (Ecuador).**

**AGENDA ITEM 88**

**Report of the Special Committee on the Question of  
Defining Aggression (continued) (A/7620; A/C.6/L.785)**

1. Mr. KHASHBAT (Mongolia) said that his country attached considerable importance to the question of defining aggression. In fact, a definition of aggression, although it might not prevent acts of aggression, would certainly be of great moral value. If aggression were defined, such acts would be regarded as crimes from the standpoint of international law. The Mongolian delegation had already stated its position during the two previous sessions and would therefore confine its remarks to a few essential aspects of the report of the Special Committee (A/7620).

2. Substantial progress had been achieved at the Special Committee's most recent session. Following lengthy controversial discussions on the usefulness and wisdom of defining aggression, the Special Committee had at long last been able to deal with some crucial aspects of the problem. Credit for that went to the Soviet Union delegation and to several African, Asian and Latin American delegations, which had submitted specific proposals (see A/7620, paras. 9 and 10). Those proposals had served as a basis for discussion. Moreover, it was interesting to note that during the current year the Western group of countries, which had hitherto denied the wisdom and usefulness of defining aggression, had also submitted a draft (*ibid.*, para. 11). Every country now recognized the importance of the work being done by the Special Committee. However, the six-Power draft fell far short of the other proposals both in substance and clarity. It did not refer either to the right of self-determination of peoples or to their right to independence and sovereignty. Those were essential principles embodied in a number of international instruments, including the Declaration on the Granting of Independence to Colonial Countries and Peoples.

3. He also expressed satisfaction at the establishment of the Working Group of the Whole. That action reflected a great improvement in the Special Committee's methods of work.

4. Turning to the substance of a definition of aggression, he pointed out that a definition had to include certain

essential elements in order to be valid. Above all, the principle of priority or "first use" should, in the Mongolian delegation's view, constitute the basic criterion. The objection raised by some, who argued that the definition should be centred on the concept of illicit intent or threat, would merely complicate the problem and might be used by the aggressor to justify his action by claiming self-defence, as had been done, for example, in Viet-Nam and the Middle East. In fact, the criterion of "first use" in no way impaired the right of self-defence as guaranteed under Article 51 of the Charter, which recognized the inherent right of self-defence "if an armed attack occurs" against a State. However, it would be wrong to place too broad an interpretation on the concept of self-defence.

5. It had rightly been pointed out that a definition of aggression should not affect the Security Council's discretionary authority. The Security Council was a representative organ which, in performing its functions, acted on behalf of all Member States. Hence, its decisions were not arbitrary.

6. The Mongolian delegation felt that a definition of aggression would be quite pointless unless it mentioned the question of responsibility. Moreover, the inclusion of a provision condemning weapons of mass destruction would be most useful, in view of the efforts currently being made by the United Nations to prohibit that type of armament. Finally, so long as colonialism had not been completely eliminated, a definition of aggression would have to include a proviso to the effect that the struggle for liberation was lawful.

7. The Special Committee had made clear progress in 1969 and had managed to agree on several points. However, it still had much to do and its work should not be suspended. It should therefore meet in 1970.

8. Mr. TOMEH (Syria) wished to inform the Committee of a breach of international law which had been committed that very afternoon. The premises of the Permanent Mission of Syria to the United Nations had been occupied by a group of young persons and it had taken the police two hours to evict them. During the incident, a police officer had recommended the Mission not to open its offices the next day, since a demonstration was scheduled to take place. The Syrian delegation felt that a grave problem of international law was involved and it wished to state that its Mission would never yield to threats.

9. He would point out that the Syrian Mission had now been the victim of such an incident for the second time. He felt that the Sixth Committee, which had just completed its draft of a convention on special missions, should look into the problem as a matter of urgency.

10. Mr. HARGROVE (United States of America) said that his delegation deeply regretted the unlawful act perpetrated by individuals, of which it had been unaware. There was certainly no question of requesting the Syrian Mission to close its premises and if such a suggestion had been made it was obviously a mistake. The United States Government had instructed the police to give missions every protection.

11. Mr. BAROODY (Saudi Arabia) recalled the various acts of aggression committed against a number of missions since 1950 and pointed out that they reflected on the United Nations as a whole. The Chairman of the Sixth Committee might perhaps look into the matter and get in touch with the Secretary-General in order to have him request the United States Mission to ensure that such incidents did not recur. It was essential that the representatives of States Members of the United Nations should be in a position to discharge their duties in peace of mind without being subjected to pressure or threats. He asked the Chairman to request the United States delegation to draw the attention of its Government to the fact that it had not yet ratified the Convention on the Privileges and Immunities of the United Nations.

12. Mr. EL-ARABY (United Arab Republic) and Mr. EL HUSSEIN (Sudan) pointed out that their missions had also been attacked or threatened and took note of the statement just made by the United States representative. They hoped that the United States Government would take steps to put matters right. The inviolability of the premises of diplomatic missions was a basic principle of international law and the United States had the necessary means at its disposal to ensure the protection of missions and to allow Member States to express their views freely in the United Nations.

13. Mr. ROBERTSON (Canada), speaking on a point of order, observed that the Canadian Mission and a number of officers belonging to Canadian concerns had been the subject of attacks and threats the year before. However, the Canadian delegation had not deemed it proper to bring the matter up in the Sixth Committee, since, in its view, the question was outside the Committee's jurisdiction. While sympathizing with the Syrian Mission, he suggested that the Committee keep to its agenda, in view of its very heavy workload.

14. The CHAIRMAN said that, while he deeply regretted the incident involving the Syrian Mission, he was not in a position to take the action requested of him. Other United Nations organs had greater competence in the matter, and the normal procedure would be to refer the question to the Secretary-General in order to have him contact the United States Mission.

15. Mr. EL HUSSEIN (Sudan) recalled that the international community had been concerned with the question of defining aggression ever since the establishment of the League of Nations, since, under Article 10 of the Covenant, the Members of the League had undertaken to respect and preserve the territorial integrity and political independence of all Members against external aggression.

16. The Special Committee on the Question of Defining Aggression, which was the fourth subsidiary body that had

been set up by the General Assembly for the purpose of defining aggression, had already done valuable work, for which it deserved to be commended. In recognition of that fact, Sudan had co-sponsored draft resolution A/C.6/L.785, which mentioned the urgency of defining aggression and the desirability of achieving that objective, if possible, by the twenty-fifth anniversary of the United Nations.

17. Some delegations had expressed doubts about the possibility or usefulness of defining aggression. Some had even argued that there would be no point in reconvening the Special Committee. The Sudanese delegation felt that a definition of aggression was of paramount importance to the maintenance of international peace and security and would facilitate the implementation of the system of collective security provided for in the Charter, while at the same time promoting the development of international law. It would also enable the Security Council to take vigorous and effective measures and would have a preventive effect by deterring possible aggressors; in addition, it would enable the peoples of the world to form clearer judgements concerning the behaviour of their Governments, which would eventually influence the course of international relations.

18. Some delegations had expressed the view that a definition would be of no value, because it would not prevent aggression. In the opinion of the Sudanese delegation, legal definitions were not designed to prevent or encourage a given type of behaviour but rather to demarcate the areas in which States could carry out their activities.

19. It had also been suggested that in the Charter of the United Nations, unlike the Covenant of the League of Nations, a definition of the notion of aggression was not indispensable to the security system. It had been argued that there were certain general principles of international law which made it possible to identify aggression easily in any particular case; those principles were stated in the Charter. No one questioned the applicability of the principles of the Charter to any particular situation; however, the Sudanese delegation thought that it was necessary to provide legal safeguards within the framework of the Charter, believing that the formulation of a definition would make it possible to avoid the subjectivity which had characterized political judgements that were not limited by rules of law. The maintenance of world peace and security would be better guaranteed if the competent organs of the United Nations could exercise their discretionary powers in accordance with some set guidelines.

20. Being a member of the Special Committee, Sudan had already had occasion to state its views on the proposals under consideration. It wished, however, to emphasize once again that, in its view, the following elements were of fundamental importance to any definition of aggression: (a) the definition should include the direct use of force; (b) the reference to the use of force should cover such violations as the practice of colonialism and racism; (c) any definition should recognize the principle that it was legitimate for peoples subjected to colonial or foreign occupation to use any means in their power, including force, in their struggle for liberation and independence.

21. Mr. HARGROVE (United States of America) said that his delegation had joined those of Australia, Canada, Italy, Japan and the United Kingdom in submitting to the Special Committee, on 25 March 1969, a draft definition of aggression (see A/7620, para. 11) mainly because the various drafts submitted to the Special Committee up to that point not only had failed to take account of the views of the United States and several other delegations on a number of points but had also, in fact, served to accentuate rather than to resolve the differences of opinion within that Committee.

22. On the subject of the thirteen-Power proposal (see A/7620, para. 10), he said that his country could not accept any definition of aggression that failed to take full account of acts of aggression committed by indirect or covert uses of force. While the draft submitted by the thirteen Powers in 1968<sup>1</sup> had declared that "aggression is the use of armed force, direct or indirect, by a State against the territory, including the territorial waters or air space of another State", thus including indirect aggression, at least in general terms, in the scope of the definition, the same could not be said of the draft submitted in 1969, which contained no reference to that form of aggression. The omission seemed arbitrary to the United States delegation, since Article 2, paragraph 4, of the Charter prohibited the use of force in general, and since Articles 1 and 39 made no distinction, based on the techniques employed by the aggressor, between the various possible forms of aggression. The proposal in question therefore not only implied a departure from the provisions of the Charter concerning the prohibition of aggression but also amounted to denying, in some instances, the right of self-defence which was accorded in the Charter to the victims of an act of aggression. The obligation to refrain from the use of force and the right to defend oneself against an act of aggression were thus made dependent on the techniques employed in the commission of that act. Such a criterion was clearly unacceptable.

23. Moreover, paragraph 2 of the proposal in question amounted to a revision of Article 2, paragraph 4, of the Charter, and paragraph 4 of the proposal contained an inaccurate paraphrase of Article 53 of the Charter. Similarly, paragraphs 1 and 2 had the effect of depriving the General Assembly of its most important responsibility for the maintenance of international peace and security. Again, the draft failed to deal with the problem of acts of aggression committed by or against political entities whose claim to statehood might be disputed but which were nevertheless subject to the obligations imposed by the Charter and international law regarding the use of force. Lastly, operative paragraph 2 of the draft, which excluded the indirect use of force from the definition of aggression, nevertheless included certain trivial cases of the direct use of force. The United States delegation did not feel that, in such cases, the powers of the Security Council could reasonably be brought into play.

24. The draft definition submitted by the Soviet Union in 1969 (see A/7620, para. 9) also raised a number of difficulties. Operative paragraph 1 of the draft implied, by reference to its eighth preambular paragraph, that armed

aggression was the form of aggression which "should be defined at the present stage". That suggested that there were other forms of aggression, within the meaning of the Charter, than "armed" aggression; the United States delegation thought, however, that the Charter concept of aggression covered only acts committed in violation of Article 24 of the Charter, that is, acts entailing the use of armed force. Furthermore, in its paragraph 2 C, the Soviet Union draft made a distinction between direct and indirect aggression. What paragraph 2 C dealt with, and properly so, was what might be called the indirect use of force, which certainly constituted aggression if it occurred in violation of the Charter. However, the Charter characterized such aggression not as "indirect" but simply as "aggression".

25. The United States delegation had already pointed out the unacceptable consequences which flowed, in its opinion, from the application of the criterion of "first use". The Soviet Union draft, in addition, restricted too narrowly the cases in which the indirect use of force should be considered to constitute an act of aggression; operative paragraph 2 C of that draft postulated three separate requirements, thus leaving a State free to commit, directly or covertly, any act of aggression that did not meet those requirements. The proposal submitted by the Soviet Union in 1953<sup>2</sup> had covered a far wider range of indirect uses of force, in that it had extended not only to the sending of armed bands but to the support of such bands, as well as the mere encouragement of subversive activity and the promotion of civil war; it had even prohibited refusal by a State to take action to deny armed bands aid or protection, when requested to do so by the State invaded. The new Soviet Union draft thus was a regression by comparison with the earlier proposal. Lastly, the fourth preambular paragraph of the draft seemed to imply that the use of force was more permissible between States having similar social systems than between States whose social systems were different.

26. The analysis he had just made was intended simply to show the members of the Sixth Committee the points on which the draft submitted by his and other delegations represented an improvement on the other draft definitions of aggression. Some delegations had questioned the usefulness of paragraph I of the draft and said that its reference to the Security Council was too restrictive. The United States delegation wished to point out that the question of defining aggression should be considered within the framework of the Charter and particularly within the framework of the provisions dealing with the Security Council. Paragraph II of the draft enumerated the characteristics of an act of aggression and stated that such an act could be committed by political entities other than States. Paragraph III dealt with the legitimate uses of force. Paragraph IV contained a partial list of acts that could constitute aggression but in no way affected the prerogatives of the Security Council in the matter of determining, as appropriate, whether an act not mentioned in that list constituted aggression or not.

27. He had listened sympathetically to the arguments put forward by various delegations concerning the usefulness of holding a further session of the Special Committee; his delegation would support the view of the majority of Sixth

<sup>1</sup> See *Official Records of the General Assembly, Twenty-third Session, agenda item 86, document A/7185/Rev.1, para. 9.*

<sup>2</sup> *Ibid., Ninth Session, Supplement No. 11, p. 14.*

Committee members on that point but could not agree to the inclusion in the draft resolution of a provision stressing the urgency of such a meeting. Lastly, the United States believed that the next session of the Special Committee should be held in New York, on account of the extra costs that the United Nations would incur if it were held at Geneva.

*Mr. Engo (Cameroon), Vice-Chairman, took the Chair.*

28. Mr. BAROODY (Saudi Arabia) said that the purpose of law was to serve and protect man in order to ensure his development in peace and security; the fundamentalist approach of a number of jurists who were more attached to the letter of the law than to its spirit was to be deplored.

29. The Sixth Committee more than any other, with the possible exception of the Fifth Committee, dealt with very specific questions rather than generalities. For example, it had for a long time been considering the question of defining aggression and, in particular, the character which such a definition should have; should it include a list of acts of aggression, or was it preferable to draw up a declaration of a more general nature? However, the essential point of the debate was not the definition itself; the purpose was, by means of the definition, to help peoples throughout the world to recognize by themselves acts of aggression when they occurred, without falling prey to petty nationalist interests.

30. In that context, semantic discussions were inappropriate, and he did not wish to discuss in detail the various texts proposed; he could make a much more positive contribution to the Committee's work by dealing with the fundamental aspects of the question rather than dwelling on problems of language.

31. He could not help thinking, in connexion with the statement of the United States representative, that although rhetoric was certainly not to be despised, one should not forget that language was symbolic in nature and merely represented abstract ideas; if everybody gave undue weight to personal notions or interpretations and lost all contact with reality, no agreement was possible. Furthermore, it was essential to avoid useless generalizations or the use of legal jargon incomprehensible to the general public, to which the definition of aggression should be primarily directed.

32. It had been said that aggression was a crime against international peace. He would go still further and say that it constituted a crime against all mankind, even where it was aimed only at individuals or at a single individual. Violence engendered violence; that was the reason for the existence at the present time of a genuine psychosis which lay at the root of all acts of aggression.

33. Returning to the question of defining aggression, he observed that the Committee was endeavouring to draw a distinction between aggression and self-defence and that attempts had been made to draw up a list of acts which should be regarded as acts of aggression. Some had pointed out that such an enumeration could not be exhaustive; that was, of course, true, but everyone knew that even laws and constitutions had loop-holes which persons acting in bad

faith could always turn to their advantage. Perfection was not an attainable goal, but if international co-operation was to be achieved there must be good faith and goodwill, since no problem would ever be solved by principles or words.

34. It had also been suggested that the definition should incorporate the concept of aggressive intention, which would constitute the first step towards aggression. In that connexion, the United States representative had upheld the right of self-defence, even in cases where there was only aggressive intention, without any declaration of war. That was a highly dangerous view, and one could not help noticing that certain statements were made only for the purpose of defending particular interests. The representatives of the great Powers should bear in mind that the latter had a particular propensity to aggression through the very fact of their strength, although history showed what had happened to great empires built on force and corrupted by power.

35. The concept of self-defence had often served as a pretext for genuine acts of aggression under the cover of propaganda and indoctrination through the information media. Experience showed, however, that there was a great risk of escalation and that, all things considered, it was preferable to be a victim rather than an aggressor.

36. In that connexion, he could only profoundly deplore the fact that, at the end of the Second World War, those who had lost the war and surrendered to the victors had been condemned by the Nürnberg Tribunal and executed without pity in a manner contrary to the then prevailing rules of law, whereas none of those responsible for the atomic bomb attacks on Hiroshima and Nagasaki had ever been called to account.

37. In the same way, one could not but condemn the hypocrisy of Powers which invoked the right of self-defence to justify their policy of aggression and their intervention in the internal affairs of other States. For example, how could one have the audacity to invoke that right to justify what was now happening in South-East Asia and the acts which were being perpetrated there in the name of freedom and democracy?

38. The debate on the definition of aggression had been in progress for years, whereas since the Second World War—which had itself appeared more horrible than its predecessor—violence had been constantly unleashed throughout the world and States were vying with one another in ingenious efforts to develop more and more deadly weapons.

39. Governments were under an obligation to safeguard the peace and security whose maintenance was pledged by the Charter to all the peoples of the world. He recalled, in that connexion, article 3 of the Universal Declaration of Human Rights, in the drafting of which he had himself participated in 1948: "Everyone has the right to life, liberty and security of person".

40. Although, in those circumstances, one might ask what purpose would be served by a definition of aggression once it was formulated, the Special Committee should nevertheless be encouraged to pursue its efforts, in the hope that the eminent jurists who were working on the definition would

refrain from entering into irrelevant disputes on points of language and that a concrete result would be obtained in the near future which would have the purpose of enlightening the public and enabling it to evaluate events for itself, in spite of the special pleading to which it was exposed.

41. Mr. DADZIE (Ghana), speaking on a point of order, said that, like the other members of the Committee, he was always interested and pleased to hear the statements of the representative of Saudi Arabia; however, in view of the late hour and the number of speakers who had not yet been heard from, he appealed to him to curtail his remarks.

42. After a brief debate, in which the CHAIRMAN, Mr. BAROODY (Saudi Arabia), Mr. DADZIE (Ghana), Mr. FRANCIS (Jamaica) and Mr. YASSEEN (Iraq) took part, Mr. BAROODY (Saudi Arabia), observing that in his opinion the Ghanaian representative's statement had not in any sense related to a point of order and that he did not recognize anyone's right to prevent the representative of a sovereign State from expounding his views as he saw fit, said that he reserved the right to speak again after the vote and possibly to revert to the matter in the General Assembly.

43. Mr. VANDERPUYE (Ghana) said that, in discussing the report of the Special Committee, and the progress which it had made, there were two attitudes which could be taken: an optimistic one and a cynical one. The optimist would feel that, in view of the modest results achieved by the present Special Committee, an acceptable definition of aggression was close to being worked out, and would forget that the vagaries of the international situation might frustrate the successful completion of the Special Committee's work at its next session; the cynic, on the other hand, would recall the entire historical background of the question of aggression and note that neither the League of Nations nor the General Assembly nor the successive special committees which had dealt with the question had arrived at a satisfactory result, and he would wonder how there could be any grounds for hoping that the present Special Committee would have more chance of success than its predecessors. While there was some truth in both attitudes, he hoped that the next session of the Special Committee would be held in a more favourable international climate, so that it could bring to a successful conclusion its protracted labours on the question. The results achieved at the Special Committee's last session had been encouraging in that regard. Those results had been due to the formulation of the five vital guidelines set out in the proposal referred to in paragraph 6 of the Special Committee's report. On the basis of those guidelines, some delegations or groups of delegations had submitted draft definitions—the USSR draft, the thirteen-Power draft and the six-Power draft—on which a measure of agreement appeared to have been reached. Those three drafts not only afforded a sound working basis for the formulation of an acceptable definition but also showed the determination of the States sponsoring them to see such a definition achieved. Nevertheless, differences of opinion persisted and chapter III of the report indicated the points on which the Special Committee had failed to agree.

44. He wished to review his delegation's position concerning the definition. First, the definition of aggression should

be based on the United Nations Charter. At the same time, the Charter should not be interpreted too restrictively, for in order to be useful as a guide a definition must not merely repeat the relevant provisions of the Charter but also broaden the scope of its principles in accordance with the spirit of the Charter.

45. Secondly, the definition must be firmly rooted in the principle that the Security Council should have a monopoly on the use of armed force, others being authorized to resort to it only in self-defence in accordance with Article 51 of the Charter.

46. Thirdly, while the definition should be based on the concept of the discretionary power of the Security Council, it should not make that power so exclusive that a paralysis in the Security Council might prevent other competent organs of the United Nations, particularly the General Assembly acting under Article 24 of the Charter, from determining the existence of a case of aggression. Article 24 emphasized the primary rather than the exclusive responsibility of the Security Council for the maintenance of international peace and security. His delegation's position on the matter coincided with that taken in the Special Committee by the delegation of Guyana, which, in its opinion, reflected recognition of a lesson learned from the practical experience of the United Nations.

47. Fourthly, the theory advanced by some delegations in the Special Committee that a definition, in order to be valid, must be acceptable to all the permanent members of the Security Council was groundless and untenable. The Charter contained no provision to that effect, and, while it might be convenient in practice to have the definition accepted by all the permanent members of the Security Council, making the determination of an act of aggression depend on acceptance of the definition by all those members would not only violate the principle of the universality of international law but also place small States automatically at the mercy of the great Powers. In his delegation's view, the validity of a definition should depend on its acceptance by the largest possible majority of Members of the United Nations.

48. Fifthly, the principle of "first use" must be given an appropriate place in the definition, which should leave the actual determination, on the basis of the facts of the case, to the Security Council. Since there could be no aggression without an aggressor, the "first use" principle was already implicitly recognized and should not give rise to any serious objections.

49. Sixthly, aggression could occur, in principle, only between States. The difficulty concerning "political entities" was not a valid ground for giving up the attempt to define aggression. The Special Committee could not define everything all at once, and some discretion should be left to the Security Council to determine when a State was a State. The principle that the non-recognition of a State by certain other States should be a basis for determining whether that State existed was completely unacceptable to his delegation in the particular instance under consideration.

50. Seventhly, any definition of aggression should make an exception of the use of armed force in the exercise of

the right of self-determination by all peoples, especially dependent peoples.

51. Eighthly, the definition of aggression should mention the case of armed bands or volunteers organized by a State or sent by it to the territory of another State for the purpose of launching an armed attack. Although that could be regarded as an indirect form of armed aggression, his delegation believed that the scale of the aggression and the degree of collusion between the armed bands and the sending State could make such acts much more serious than the forms of indirect aggression to be considered later by the Special Committee, and they therefore merited the Special Committee's immediate attention. At the same time, the principle of the proportionality of the victim State's response to the armed aggression must not be overlooked.

52. Ninthly, intent should not be included as a necessary element in the definition of aggression, since it would be almost impossible to establish in the case of States and its use as a criterion might even legitimize preventive attacks, which might be represented as legitimate preparations made in exercise of the right of self-defence.

53. Tenthly, any definition of aggression must include appropriate provision for the criminal responsibility of the aggressor and for the inadmissibility or non-recognition of any gain resulting from the aggression. Although such a provision might not be strictly germane to the actual definition of the term, it nevertheless had a fundamental validity, since part of the purpose of the definition was to deter a possible aggressor.

54. He hoped that the Special Committee would meet in 1970 and complete its work as soon as possible, so that the General Assembly could adopt a definition of aggression at the session marking the twenty-fifth anniversary of the United Nations. The Special Committee should therefore review its methods of work and adopt a time-table at the beginning of its next session. Moreover, the Working Group should have a smaller but representative membership instead of including all Special Committee members. At its next session, the Special Committee would do well to omit the general debate and resume its work at the point where the work of the 1969 session had ended. Lastly, in view of the political nature of the task undertaken and the desirability of drafting a generally acceptable definition, agreement should be arrived at by consensus. However, that method should not be used so as to introduce a veto which could make the views of the minority prevail over those of the majority.

*Mr. Alcívar (Ecuador) resumed the Chair.*

55. The CHAIRMAN announced that the Soviet Union wished to become a sponsor of the draft resolution A/C.6/L.785.

*Mr. Engo (Cameroon), Vice-Chairman, took the Chair.*

56. Mr. KOSTOV (Bulgaria) said that his delegation deplored the incident which had occurred that same day at the Permanent Mission of Syria to the United Nations and hoped that the necessary measures would be taken to ensure the complete inviolability of permanent missions.

57. The report of the Special Committee on the Question of Defining Aggression was a landmark in the long history of the problem. Attempts to define aggression had always been closely linked to the struggle which the countries and peoples devoted to freedom and justice had carried on against imperialist and colonialist wars and against the use of force in international relations in general. Bulgaria, which had always favoured the drafting of a definition of aggression, could not but welcome the fact that certain new elements in the situation gave reason to hope that the task might be completed in the relatively near future. It seemed that long and fruitless discussions were now a thing of the past and that concrete work was finally being done. In particular, a large group of countries which had previously expressed doubt concerning the feasibility and usefulness of a joint definition of aggression had themselves submitted a draft definition to the Special Committee. His delegation had strong objections to that draft and would therefore be unable to support it. Nevertheless, he hoped that that initiative reflected a desire on the part of those countries to contribute to the success of the Special Committee's work and did not represent a new delaying tactic.

58. His delegation was also pleased that the Soviet Union's new draft and the new thirteen-Power draft showed a substantial measure of agreement concerning the fundamental principles on which the definition of aggression should be based and the problems it should cover. The chief virtue of the Soviet Union's draft, which his delegation fully supported, was that it reflected all the points of agreement among the great majority of members of the Special Committee, while avoiding the basic defects of the drafts submitted at the 1968 session of the Special Committee. The discussion in the Special Committee had shown that the area of agreement between the two drafts could be expanded further. His delegation therefore earnestly hoped that tangible results could be achieved at the Special Committee's next session.

59. He was also pleased that, at its most recent session, the Special Committee had adopted a rational method of work and had established a Working Group. It was, however, regrettable that, through lack of time, it had been unable to make appreciable progress on the substance of the problem, which had numerous aspects, some of which were particularly worthy of attention.

60. On the question, first, of the definition of aggression and the power of the Security Council, his delegation felt there was no doubt that the definition of aggression, too, should be based entirely on the relevant provisions of the Charter. It was also necessary to preserve the discretionary power vested in the Security Council as the organ of the United Nations with primary responsibility for the maintenance of international peace and security. Consequently, the definition of the concept of aggression should in no circumstances restrict the power of the Security Council to determine the existence of an act of aggression in cases of threats to or breaches of the peace. However, paragraph 3 of the Soviet Union draft met that requirement. If a different course was to be followed, the United Nations would have to consider a revision of the Charter, which, apparently, was not the intention of any delegation represented in the Special Committee. His delegation therefore opposed any vague and ambiguous formulation—

such as that contained in paragraph 3 of the six-Power draft—which would be likely to encourage unlawful attempts to confer on other organs of the United Nations, and even regional organizations, powers which were not accorded to them under the Charter. Preservations of the power of the Security Council in no way diminished the value of the definition itself. The definition of aggression should not be regarded as a formula which would apply automatically and would deprive Governments and the Security Council of their freedom of judgement in each specific case, but as a formula designed to facilitate the task of the Council and to increase its effectiveness.

61. His delegation was fully aware of the importance of the problem posed by the distinction to be drawn between armed aggression and the legitimate use of force. Failure to include in the definition of aggression clear and indisputable criteria for distinguishing between those two categories of action would be fraught with serious consequences. The difficulty in drawing such a distinction was obviously due to the fact that both categories involved the use of armed force. However, from the point of view of their legal, moral and political classification, they were totally different from each other.

62. He drew attention to one instance of the legitimate use of force which had given rise to very heated controversy, namely, the use of armed force in the exercise of the right of individual or collective self-defence, as provided for in Article 51 of the Charter. The use of force in the case of aggression and the use of force in the case of self-defence, from the strictly legal standpoint, bore a purely superficial similarity which consisted in the non-existence of a previous authorization, by the competent body, to resort to force. However, that similarity might give rise to confusion and tendentious distortions. Modern history provided many examples of that fact, since the most flagrant acts of aggression were now portrayed as acts of self-defence. The two acts were in keeping with correlative concepts between which there was, in a sense, a cause-and-effect relationship. The act of armed aggression gave rise to the act of self-defence and, conversely, the act of self-defence was a response to the act of armed aggression. Nevertheless, even a superficial examination of those two concepts brought out the characteristics of each of them and the essential differences which separated them and made it easy to draw a distinction between them. What, then, were the criteria for drawing such a distinction? Chief among them was the objective principle of priority or "first use", which had been known since the draft definition proposed by the Soviet Union in 1933 and which was referred to again in the draft submitted by that country to the Special Committee at its most recent session. It was also contained in the thirteen-Power proposal, but it was absent from the six-Power draft—a serious omission. Some delegations had raised objections to that criterion but, in the opinion of his delegation, those objections did not have a sound basis. Thus, in order to reject the criterion itself, those delegations had pleaded the difficulty, at the practical level, of determining which State first resorted to the use of armed force. However, even if the determination raised difficulties, his delegation could not support such an argument, since the difficulty, if it existed, was primarily of a political, and not a legal, nature. Actually, in most cases, the difficulties were due to the fact that behind the true

aggressor were other States which protected or encouraged it and which, subsequently, came to its defence. It should not, however, be concluded that, for his delegation, the objective criterion of priority did not exist. On the contrary, that criterion did exist and, if it was retained, it might help the Security Council, in every specific case, to determine the real culprit.

63. In his delegation's opinion, there was another very important criterion which enabled a distinction to be drawn between the legitimate use of force and acts of armed aggression; namely, the incompatibility of those acts with "the purposes, principles and provisions of the Charter of the United Nations", which was mentioned in operative paragraph 1 of the Soviet Union's draft. Although it was general in scope and self-evident, that criterion met the requirements of a definition of aggression. Moreover, it should not be forgotten that such a definition was aimed at determining the concept of aggression and not the legitimate use of force, and that the criteria for drawing a distinction should be contained in the definition, in so far as they enabled that concept to be more closely defined. Although it should be based strictly on the Charter, the definition of aggression should also take account of other international instruments which reflected the evolution of international society in the post-war years. Thus the definition of aggression should expressly state that no provision prevented the use of armed force by colonial peoples in order to exercise their inherent right of self-determination, in accordance with the provisions of General Assembly resolution 1514 (XV).

64. His delegation supported the draft resolution and would vote in favour of it. In doing so, it would express its support for the convening of the Special Committee at Geneva.

65. Mr. DEBERGH (Belgium) said that, regardless of its views on the necessity and usefulness of the attempt to define aggression, his delegation considered that the Special Committee had done a serious and constructive job and that it had, above all, succeeded in avoiding the controversy which had marred its 1968 session.

66. With regard to the advisability of the undertaking itself, the Belgian Government considered that it was very difficult to work out a general definition of aggression without running the risk of drastically over-simplifying a problem which had numerous implications. It was far more necessary that the United Nations organ which bore the primary responsibility for preventing and ending aggression should consider each case separately on the basis of a thorough analysis of its context and background. That was provided for in Article 39 of the Charter, which established the competence of the Security Council on that point and made it *par excellence*, in every specific case which it had to examine, the "Special Committee on the Question of Defining Aggression". If, in spite of everything, an attempt was made to formulate a general definition of aggression, care should be taken to ensure that that definition did not make the task of the Security Council more difficult than it was already, at a time when war was no longer declared and peace was no longer practised. His delegation considered that no definition would be satisfactory unless it enabled the Security Council to make an objective assessment of all

the circumstances relating to the case before it and to determine whether that case fell within the field of application of Article 39 and whether action was necessary.

67. There were two dangers which should be avoided at the outset. The first was the formulation of a definition which would be applied automatically and would thus restrict the discretionary power of the Security Council. In the opinion of his delegation, that was a shortcoming which seemed to lessen the value of the draft definition submitted by the Soviet Union, under which the supreme organ of the United Nations would have only a subsidiary power.

68. The second danger to be avoided was that of a definition which, through a loose interpretation of the Charter, might involve the Security Council in the intricacies of legal terminology in each specific case. That was the main shortcoming of the thirteen-Power draft definition, which at times gave the impression of seeking too theoretical and circumstantial an undertaking to abolish recourse to force in some international relations at the expense of the real purpose of the Charter, namely the establishment of a truly effective system for maintaining international peace and security. Paragraph 1 of that draft definition, for example, invested an ill-defined entity—the United Nations as such—with powers which, under the Charter, should be exercised by the Security Council alone. Moreover, in considering the use of force and the right of self-defence in the light of recourse to one method only, that of direct armed attack, the concept of aggression set forth in paragraph 2 of that draft was not in accordance with the spirit of Article 2, paragraph 4, and Articles 51 and 53 of the Charter. Lastly, his delegation had some doubts concerning the reference to the principle of proportionality in countering certain forms of aggression, and to the absolute principle of priority.

69. The six-Power draft, on the other hand, was more in keeping with the provisions of the Charter and above all had the merit of expressing more clearly the concept of recourse to force. Some might consider that in the two sections of its paragraph IV the draft drew too clear a distinction between aggressive intent and the means of aggression, when in the majority of cases the very use of the methods described coincided in principle with aggressive intent. However, his delegation took it that the draft was perhaps only a preliminary version which still had to be improved.

70. The considerations which he had advanced on the substance of the various drafts in no way altered his delegation's views on the usefulness of the efforts made to define aggression. While recognizing that the sponsors of the undertaking were well-intentioned and sincere, his delegation considered that such work might duplicate that of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, to which it attached particular importance, and which seemed to hold out better prospects of satisfactory results. It might therefore be wiser to give priority to that Committee's work and, in line with the Liberian representative's suggestion (1165th meeting), to suspend for two years the work of the Special Committee on the Question of Defining Aggression.

71. His delegation therefore requested a separate vote on the words "the urgency of defining aggression and" in the fifth preambular paragraph when the Committee voted on the draft resolution.

72. Mr. HARDING (Sierra Leone) said that any definition of aggression should be in conformity with the United Nations Charter; it should not only be realistic but should command the support of a large majority of Member States. A definition of aggression would help to ensure the maintenance of international peace and security and the protection of the territorial integrity and political independence of Member States. It would undoubtedly constitute a basic element of international law and would make it easier for the Security Council to perform its difficult task.

73. It was precisely because a generally recognized definition of aggression was lacking that some Member States constantly committed acts of aggression; a case in point was the bombing by Portugal of targets in Senegal and Guinea. Such acts might not be committed if they were severely and universally condemned as acts of aggression.

74. His delegation supported the thirteen-Power draft, which appeared to contain all the elements of a definition of aggression on which the majority of Member States could agree. Moreover, his delegation had sponsored the draft resolution, because it was convinced that the importance of the Special Committee's work should be duly recognized. He hoped that that Committee would be able to complete its work in 1970.

75. Mr. CHOUERI (Lebanon), expressing his sympathy with the Syrian Mission on the invasion of its premises, said that he hoped everything would be done to avoid a repetition of such incidents.

76. His delegation had taken note with interest of the Special Committee's report, which showed that although great progress had been made its work was far from over. The difficulties involved in defining aggression seemed to fall into three categories: firstly, it was doubtful whether a generally acceptable definition could be drawn up in the near future; secondly, the practical applications of such a definition would create problems, and lastly, the effect of the definition on the powers and responsibilities of the various United Nations organs, particularly the Security Council, would have to be considered. There was also the question whether it was fully in conformity with the principles of the Charter.

77. His delegation was in favour of drawing up a definition of aggression which, in its view, would constitute a basic element of international law and would help to safeguard peace; it should, for example, make it possible to apply the proper term to the occupation by force of vast areas belonging to three Arab States. To play its rightful part, that definition should be based on the principles set forth in the United Nations Charter; otherwise it would be a source of controversy and run counter to the objectives sought.

78. Some delegations were concerned about the effects that a definition of aggression would have on the Security Council's discretionary power; his delegation was convinced



that a definition in conformity with the principles of the Charter would not affect the Security Council's authority, since the Charter recognized that body as the United Nations organ primarily responsible for the maintenance of international peace and security. Moreover, it would not restrict the Security Council's power to determine the existence of a threat to or breach of the peace. However, the method of applying the definition should as far as possible be stipulated, since the question arose as to whether it would apply automatically to a conflict, whether it would simply be a directive for the Security Council or whether a specific provision to that end would have to be made.

79. It was highly desirable that the work on the definition of aggression be completed before the twenty-fifth session of the General Assembly. His delegation would therefore vote in favour of the draft resolution, which provided for a session of the Special Committee in 1970. If that Committee's efforts were unsuccessful, however, the question might be considered in the context of the revision of the Charter, which the Sixth Committee would be dealing with in the near future.

*Mr. Alcívar (Ecuador) resumed the Chair.*

80. The CHAIRMAN declared the debate on draft resolution A/C.6/L.785 closed. He then invited the representative of Congo (Brazzaville), who wished to explain his vote before the vote, to do so.

81. Mr. GABOU (Congo, Brazzaville) said that his vote on the draft resolution would be based on the following considerations. Regions of the world were currently being subjected to an intolerable barbarism arising from the warlike and expansionist instincts of some States. World peace was seriously jeopardized. Peoples were being sacrificed and were dying in an attempt to regain their freedom, while others, who constantly proclaimed their adherence to the maintenance of peace, were violating it with impunity. The victims of a retrograde and outdated colonialism were enduring the worst kind of suffering and the colonialists, instead of providing them with the means to recover, were producing weapons of mass destruction.

82. In order to demonstrate its goodwill, his delegation was prepared to support those who thought it necessary to arrive at a legal-political definition of aggression before resolving really urgent questions.

83. He wished to congratulate the Special Committee on its work and its report and he felt that its mandate should be extended so that the product of its painstaking efforts might be obtained at the celebration of the twenty-fifth anniversary of the United Nations. He hoped that the definition of aggression would be of intrinsic value and would thus be binding on the Security Council, which would no longer have to seek the consent of its permanent members.

84. His delegation considered as an act of aggression a deliberate attack by one or several peoples or States, with a view to waging war, on one or several peoples or States on their national territory, whether or not that act constituted anticipatory self-defence as a last resort. The concept of

aggression involved not only the perpetration of the physical act—before the other party could take action—but also the existence of deliberate intent to commit aggression. Aggression consisted of a complex of interrelated acts, beginning with the intent to engage in warlike activities and its implementation, and including the stage of preparation or, to use the terms of the report, of planning. That was why his delegation refused to take into consideration, in determining the existence of an act of aggression, any fact or circumstance which would raise the question whether or not the aggression had followed threats by the victim of the aggression. That was why, in connexion with the situation in the Middle East and particularly the war of June 1967, his delegation could not agree that the closing of certain waterways, even international waterways, or the formulation of threats might serve as a pretext to justify the crime committed by Israel, let alone acquit it of the crime of aggression. The definition of aggression, while respecting the principle of the existence of an aggressive intent and the principle of priority, should not restrict the right of self-defence of those who had been recognized as possessing that right.

85. Furthermore, his delegation did not consider as an act of aggression the provision of appropriate assistance to national liberation movements by the entities to which the definition might apply. It supported and would continue to support national liberation movements such as the liberation movement of occupied Palestine and the Asian liberation movements which were struggling against the oppression of the United States and their puppets. Likewise, it could not consider as aggression the attempt by the People's Republic of China to unify its territory by seeking to recover Formosa, even through the use of arms.

86. Who was responsible for determining the existence of an act of aggression? Some held that that power was vested in the Security Council by the Charter. His delegation, however, refused to consider itself bound by the decisions of an organ whose procedure clearly violated the principle of sovereign equality of States. The distinction between permanent and non-permanent members had no justification. The fact that certain privileged States possessed the right of veto merely served to create two categories of States. While the Security Council censured Israel, that country continued to bomb the Arab countries. While it temporized on Viet-Nam, American planes mercilessly dropped tons of bombs on the unfortunate people of that country. And while all that was happening, the Sixth Committee was considering the question of defining aggression.

87. Nevertheless, although his delegation doubted that defining aggression would serve any practical purpose, it would vote for the draft resolution, which it also wished to co-sponsor, in order to show that it desired to co-operate with those who felt that the task they had undertaken would benefit mankind. However, his delegation was still convinced that so long as there was inequality within the Organization and certain States indulged their aggressive instincts, the oppressed peoples would have no alternative to armed resistance.

88. Mr. DARWIN (United Kingdom) pointed out that to hold the next session of the Special Committee at Geneva

would cost the United Nations an additional \$103,200. It would be advisable to avoid such an expense by holding the session in New York in February and March of 1970. His delegation therefore requested a separate vote on the words "at Geneva in the second half of" in operative paragraph 1 of the draft resolution. If deleted, they would be replaced by the word "in".

89. The CHAIRMAN called for a separate vote, as requested by the representative of Belgium, on the words "the urgency of defining aggression and" in the fifth preambular paragraph of draft resolution A/C.6/L.785.

*At the request of the representative of the United Republic of Tanzania, the vote was taken by roll-call.*

*Greece, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Greece, Guatemala, Guyana, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Lebanon, Libya, Mali, Mexico, Mongolia, Morocco, Niger, Pakistan, Peru, Philippines, Poland, Romania, Saudi Arabia, Sierra Leone, Southern Yemen, Spain, Sudan, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia, Afghanistan, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Central African Republic, Ceylon, Chad, Chile, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Ethiopia, Finland, Ghana.

*Against:* Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, South Africa, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Canada, Denmark.

*Abstaining:* Ireland, Liberia, Mauritius, Turkey, Uruguay, Venezuela, Argentina, Austria, Barbados, Brazil, Cameroon, Colombia, France.

*By 56 votes to 15, with 13 abstentions, it was decided to retain the words "the urgency of defining aggression and" in the fifth preambular paragraph of the draft resolution.*

90. The CHAIRMAN called for a separate vote, as requested by the representative of the United Kingdom, on the words "at Geneva in the second half of", in operative paragraph 1 of the draft resolution.

*By 46 votes to 16, with 22 abstentions, it was decided to retain the words "at Geneva in the second half of" in operative paragraph 1 of the draft resolution.*

91. The CHAIRMAN put to the vote the draft resolution as a whole.

*The draft resolution (A/C.6/L.785), as a whole, was adopted by 68 votes to 1, with 15 abstentions.*

92. Mr. HOUBEN (Netherlands), Rapporteur, proposed that a summary of the general juridical views expressed during the Committee's debate on agenda item 88, entitled "Report of the Special Committee on the Question of Defining Aggression", should be reproduced in the Sixth Committee's report; in accordance with sub-paragraph (f) of the annex to General Assembly resolution 2292 (XXII), the financial implications of such a procedure had to be brought to the attention of the Committee. Accordingly, he informed the Committee that his proposal would involve an expenditure of \$1,500.

93. The CHAIRMAN said that, if there were no objections, he would take it that the Committee approved the proposal of the Rapporteur.

*It was so decided.*

*The meeting rose on Thursday, 4 December, at 12.35 a.m.*