

Friday, 15 November 1957,
at 10.50 a. m.

NEW YORK

CONTENTS

	<u>Page</u>
Agenda item 54:	
Question of defining aggression: report of the Special Committee (continued)	
Consideration of draft resolutions and proposals before the Committee (continued)	111

Chairman: Mr. Santiago PEREZ PEREZ (Venezuela).

AGENDA ITEM 54

Question of defining aggression: report of the Special Committee (A/3574; A/C.6/L.399, A/C.6/L.401, A/C.6/L.403 and Corr.1, A/C.6/L.404, A/C.6/L.406, A/C.6/L.407) (continued)

CONSIDERATION OF DRAFT RESOLUTIONS AND PROPOSALS BEFORE THE COMMITTEE (continued)

1. Mr. TABIBI (Afghanistan) said his delegation opposed the new United States proposal (A/C.6/L.407) because the idea behind the proposal was the same as that which had inspired the earlier suggestion (A/C.6/L.402), which had since been withdrawn (533rd meeting), that further consideration of the question of defining aggression should be postponed indefinitely.
2. The course outlined in the United States proposal would, if accepted, constitute a regrettable precedent, for the committee provided for would be composed, as was the General Committee of the Assembly, according to purely political considerations, and such a body would not be the proper one to deal with the technical question of defining aggression.
3. Support of the United States proposal would be tantamount to the adoption of a negative position with regard to the definition of aggression, and he was surprised to see such support given by delegations which had always been in favour of a definition.
4. His delegation supported the seven-Power draft resolution (A/C.6/L.403 and Corr.1) which would afford new Member States an opportunity to express their views.
5. Mr. CASTAÑEDA (Mexico) said he opposed the new United States proposal, put forward in the form of amendments to the seven-Power draft resolution. That proposal did not represent a compromise between the views of those who favoured a definition of aggression and those who were opposed to a definition, as the United States representative maintained. It only reflected the interests of the latter. In fact, it was even more unfavourable from the point of view of those who wished a definition than had been the earlier United States draft resolution which proposed indefinite postponement of the question.
6. If the item were postponed indefinitely, as that

earlier draft had proposed, it would still be open to any Member State to request its inclusion in the agenda of some future session of the General Assembly. The General Committee would, in that event, make a recommendation on the request, and the General Assembly would decide. If the new United States proposal were accepted, however, a Member State wishing to revive the item would not only have to satisfy the usual formalities but would, moreover, have to surmount the additional obstacle of a possible negative recommendation by a new committee which normally did not exist.

7. Furthermore, it was not practical to make progress dependent upon the receipt of replies from Governments. Experience had shown that few Governments sent in their comments, even on questions of immediate interest to them, such as the law of the sea.

8. Lastly, he said that if the sponsors of the seven-Power draft resolution did not accept the United States amendments, the Chairman would have to decide whether the United States text or the amendment of which Mexico was a co-sponsor (A/C.6/L.404) should be voted on first. He formally asked for a ruling by the Chair.

9. Mr. BRAVO (Chile) said his instructions were to oppose the new United States amendment (A/C.6/L.407) and to maintain the original joint draft resolution of which Chile was one of the co-sponsors (A/C.6/L.403 and Corr.1).

10. The CHAIRMAN said he would give the ruling requested at the appropriate time.

11. Mr. LACHS (Poland) said there appeared to be general agreement that the work on the question of defining aggression should continue. What was more, the Committee which was to carry on the work should be given some substantive task, and not merely the procedural functions contemplated in the new United States text.

12. In the practice built up by the United Nations in the course of twelve years there was no precedent for the proposal that a subsidiary body should be set up to make recommendations concerning the inclusion of an item in the agenda of the General Assembly.

13. The effect of the United States proposal would be that, before the particular item relating to the definition of aggression could be placed on the agenda of a future session of the Assembly, it would have to pass the scrutiny of two committees, first the proposed new committee and, secondly, the General Committee of the Assembly. The new committee would, so far as that particular item was concerned, actually have more powers than the General Committee itself; it would apparently be able to prevent the General Assembly from taking up the matter at all, whereas recommendations of the General Committee concerning

the agenda could always be overruled by the General Assembly.

14. Furthermore, the United States proposal, if adopted, would lead to a break in continuity. The composition of the Committee proposed therein would vary from year to year, since it was to have the same membership as the General Committee "of the most recent regular session of the General Assembly".

15. Another objection to the United States proposal was that it gave the committee no guidance concerning the factors it should take into account in reaching a decision. In determining the appropriate time for the consideration of the question of defining aggression, was it to be influenced by the number of replies received or by some other consideration? The United States text would leave the important question of defining aggression in a state of deplorable uncertainty.

16. His delegation saw much merit in the six-Power amendment (A/C.6/L.404), which should prove acceptable to those who wished consideration of the item to be postponed to a later session of the General Assembly. He added that he could not accept the suggestion that work on the definition of aggression should be held up pending an improvement of the international situation. The international situation was not something abstract; it was a reflection of the relations between States; and the members of the Sixth Committee, as jurists, had a duty to contribute to the betterment of those relations.

17. Mr. GEORGIEV (Bulgaria) said that, in his opinion, there was little force in the argument that the question of defining aggression needed no further consideration by a special committee. Precisely because there were so many differences of opinion, even among those who favoured the adoption of a definition, more discussion was necessary before the groundwork for a final text could be completed.

18. Even as far as matters of mere form were concerned, many delegations were still sharply divided. For example, some maintained that what was required was not a definition but an explanatory text, while others felt that the expression "definition of aggression" had acquired a political, juridical and historical significance and indicated the proper course of action.

19. Some of the divergent views on matters of substance were even more difficult to reconcile. That had been amply demonstrated by some of the constructive criticism of his earlier statement (519th meeting) made at the 531st meeting by the Mexican representative, who had advocated the inclusion in the definition of a general formula which, in the Bulgarian delegation's opinion, lacked the necessary element of action. The Mexican representative was apparently more concerned with crystallizing the notions already contained in the Charter, whereas Mr. Georgiev wished to develop and clarify those notions. In the Bulgarian delegation's view, differences of opinion of that nature could only be resolved after protracted further debate in a special committee.

20. Some delegations had contended that no further progress could be achieved until there was some improvement in the international atmosphere. The Bulgarian delegation, however, felt that political considerations were being overemphasized and allowed to obscure the legal issues. For that reason, it wel-

comed the amendment proposed by Ceylon, Egypt and Indonesia (A/C.6/L.406), which, by requesting priority for work on the notion of armed attack, showed a keen awareness of proper juridical practice. Any United Nations body which failed to give that notion priority in defining aggression would be in the same position as a municipal codification commission which attempted to define all the possible forms of homicide without first arriving at a definition of murder.

21. In a new special committee some of the members would have to rid themselves of their past tendency to regard the very idea of an innovation as grounds for opposing a definition without any regard for the desired objectives. The new committee's terms of reference should therefore include an explicit statement of the purposes which a definition should serve. Such a procedure would obviously not eliminate all of the difficulties, but it would at least show the committee in what direction it should concentrate its efforts.

22. The Bulgarian delegation was naturally well aware that certain delegations favoured an indefinite postponement of further discussion. The new United States amendment (A/C.6/L.407) was clearly designed to serve that end in precisely the same manner as the original United States draft resolution (A/C.6/L.402). The supporters of postponement, however, who sought to justify their position by calling for deeds and not words, tended to overlook the elementary truth that a juridical committee was required to clarify the law and not to take political action.

23. The United States representative had contended that the necessary machinery for determining aggression already existed, and that a surfeit of detailed rules could only hinder its operation. The provisions of the Charter, however, were so vague that, without clarification and detailed regulations, the existing machinery would always work to the advantage of the strongest. Consequently, those provisions had to be developed and amplified before the rule of law could be assured. Reliance on strong machinery and the exclusion of all legal guarantees had been the dominant characteristics of absolute monarchy.

24. Mr. MALOLES (Philippines), speaking on a point of order, said that the Bulgarian representative's remarks were irrelevant to the issue under discussion. The general debate had been closed, and delegations should now concentrate on the various draft resolutions and amendments.

25. Mr. GEORGIEV (Bulgaria) said that he had only referred to some points of substance in order to demonstrate the need for a new special committee. As far as the new United States amendment was concerned, he fully agreed with the representative of Poland. The Sixth Committee had no power to delegate to any subordinate body the authority to decide whether a question should be restored to the General Assembly's agenda. Furthermore, the procedure proposed by the United States would restrict the inherent right of every Member State to request the inclusion of any agenda item it desired.

26. Mr. KESTLER (Guatemala) said that the United States amendment to the seven-Power draft resolution tended to give too much power to a political body on what was really a technical question. Such a procedure would not only constitute a regrettable precedent but would also run counter to the principles of rules 40,

41 and 42 of the rules of procedure of the General Assembly. The adoption of the United States amendment would not represent a compromise, as the United States representative had maintained, but would indefinitely postpone further study of the question of defining aggression. For those reasons, the delegation of Guatemala would vote against the United States amendment.

27. As his delegation had always hoped that a definition of aggression could be drafted, he would support the seven-Power draft resolution as amended by document A/C.6/L.404. In consequence of the provisions of those two texts new Member States would be given a fuller opportunity of considering all aspects of the question, and a more comprehensive definition might result from the discussions.

28. Under the United States amendment, the committee composed of members of the General Committee could do no more than decide when the question of defining aggression should be raised again, whereas the seven-Power draft resolution, as amended by document A/C.6/L.404, was more constructive. It was the moral duty of the United Nations to persevere in its efforts to work out a definition of aggression.

29. Mr. ALVAREZ AYBAR (Dominican Republic) said that a definition of aggression should really be a set of international rules capable of application in particular cases. If it was impossible to reach agreement on such rules for the time being, the only alternative was to trust to international good faith and to an improvement in international relations. He would therefore support the seven-Power draft resolution as amended by the United States (A/C.6/L.407).

30. Mr. RÖLING (Netherlands) said that the cold war made it impossible to draft a definition of aggression under prevailing conditions. He was pleased to note that the United States delegation, which had stood out against any definition of aggression, had now agreed in its amendment (A/C.6/L.407) that further attempts to work out a definition should be geared to an improvement in international relations.

31. He was not entirely satisfied with the procedure proposed in the United States amendment, as it might well lead to difficulties. It would be hard to determine the criterion that should be adopted for placing the question of defining aggression back on the agenda.

32. With reference to operative paragraph 3 of the United States amendment, he said that Governments were reluctant to send in replies to questions connected with the definition of aggression. The usefulness of such answers was at all events doubtful.

33. The real obstacle to any definition of aggression was the rigid attitude adopted by three of the permanent members of the permanent members of the Security Council. However, the United States amendment improved the position. A committee which in its composition mirrored the General Committee of the Assembly would be well qualified to determine what would be an appropriate time for resuming the discussion on a definition of aggression, for, with its broad powers, it would inevitably take changes in the international climate into account. In a way it was perhaps unfortunate that a political body should be asked to deal with a juridical question. He thought, accordingly, that the Committee provided for in the United States amendment

should be instructed to consider exclusively the maturing of political conditions to the point at which they might be conducive to more fruitful technical work.

34. Mr. ABDURACHMAN (Indonesia) said that, while a discussion of questions of procedure might help to clarify the position, procedural moves should not be allowed to frustrate the intention behind General Assembly resolution 895 (IX). The seven-Power draft resolution was a compromise. The amendment contained in document A/C.6/L.404 was an improvement on it; and the amendment contained in document A/C.6/L.406, of which his delegation was a co-sponsor, was a still further improvement.

35. While the United States amendment was in certain respects attractive, it would, he feared, make a compromise solution more difficult to reach. Although the United States had withdrawn the draft resolution contained in document A/C.6/L.402, the new United States amendment had been conceived in the same spirit; it would tend to shelve the question of defining aggression indefinitely.

36. The seven-Power draft resolution, with the amendments contained in documents A/C.6/L.404 and A/C.6/L.406, would keep alive the spirit of General Assembly resolution 895 (IX). He could not support any draft resolution which departed from the spirit of General Assembly resolutions recommending the preparation of a definition of aggression.

37. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he was in favour of any amendment that would keep the discussion of the question of defining aggression open. It seemed that many delegations were in favour of a more thorough study of the question of defining aggression. While he was in favour of the amendments contained in documents A/C.6/L.404 and A/C.6/L.406, because they increased the chances of acceptance of the seven-Power draft resolution, he thought them to be an absolute minimum.

38. The majority of delegations seemed to be in favour of the draft resolution and amendments he had just mentioned, and the United States amendment (A/C.6/L.407) was clearly at variance with the majority opinion. It had been submitted as a compromise, but it was nothing of the kind. The United States delegation had maintained that its amendment did not affect the substance of the text which it proposed to amend. In fact, however, the attitude of the United States delegation, as reflected in its earlier proposal (A/C.6/L.402), since withdrawn, had not changed. Its intention was to bring discussion of the question of defining aggression to an end. Unable to bar discussion of the question of defining aggression altogether, the United States delegation was now attempting to devise a scheme for spinning out the discussion interminably.

39. He agreed with the representative of Indonesia that the adoption of the United States amendment would frustrate the purpose of General Assembly resolution 895 (IX) and its predecessors. The United States amendment banished questions of substance and left questions of procedure only, and none could tell when discussions on a definition of aggression might be resumed. Besides, the United States amendment was an infringement of the General Assembly's rules of procedure, for it might have the effect of debarring the question of defining aggression from the agenda of future sessions forever.

40. He agreed with the Mexican representative that the United States amendment should be rejected, and he hoped that those wishing to accomplish something positive would vote in favour of the amendment con-

tained in document A/C.6/L.404, and so prepare the ground for further work.

The meeting rose at 1.5 p.m.