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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. ABAUNZA MARENCO (Nicaragua) was of the opinion that none of the proposed definitions that had been submitted would make it possible to avoid future aggression.

2. The draft resolution submitted by Iran and Panama (A/C.6/L.401) came closest to what might be called a definition, but even so it contained loopholes which a country wishing to establish domination first over weak nations and later over the entire world would be able to use to its advantage.

3. As far as the Soviet draft resolution (A/C.6/L.399) was concerned, no definition which regarded an economic act as aggression was acceptable, because it could be so interpreted as to strike a blow at a State's economic sovereignty and completely halt its development.

4. It was impossible at the present time to count upon the good faith of a major Power which had recently absorbed or subjugated many of the European countries. Before a useful definition of aggression could be arrived at, that country's conduct would have to be watched over a period of several years to see whether it had really repudiated its aims of conquest. The discussion had given rise to theoretical statements which would have been appropriate in a university, but the facts should be looked at realistically. It was childish to think that a definition of aggression could prevent atomic aggression. A definition was valuable only to the extent to which good faith prevailed among nations, and any definition of aggression would be pointless until there was tangible proof of good faith on the part of certain countries. The Nicaraguan delegation would for that reason support the United States amendment (A/C.6/L.407).

5. Mr. ABDESSELAM (Tunisia) regretted the decision of the Iranian and Panamanian delegations not to press

for a vote on their draft resolution because, despite its shortcomings, that draft would have been an excellent working document. The Tunisian delegation's viewpoint was for the most part in agreement with the principles embodied in that text.

6. The Soviet draft resolution was the most complete text before the Sixth Committee. The Tunisian delegation could not, however, approve of it, since the definition which it proposed was enumerative, whereas the Tunisian delegation favoured a mixed definition. In addition, that draft contemplated forms of aggression which did for the time being seem to lend themselves to definition.

7. As the Tunisian delegation had noted a wide difference of views on procedural proposals in the course of the general debate, it felt that the more prudent course was to defer the matter to a later session of the General Assembly. That was why it regarded the seven-Power draft resolution (A/C.6/L.403 and Corr.1), in the unamended version, providing for a period of reflection up to the fourteenth session, as satisfactory. It also favoured the six-Power amendment (A/C.6/L.404), the purpose of which was to increase the membership of the Special Committee, because there might be much to gain in hearing opinions other than those hitherto expressed. The sub-amendment proposed by Ceylon, Egypt and Indonesia (A/C.6/L.406) merely reflected the majority opinion which had emerged in the course of the general debate, namely, that a definition of armed attack must be arrived at first.

8. The new United States amendment (A/C.6/L.407), submitted as a compromise solution, in reality destroyed the economy of the seven-Power draft resolution. If the Sixth Committee had decided to postpone consideration of the definition of aggression *sine die*, its inclusion in the agenda could have been requested at any later session. In the second place, the committee proposed in that amendment would have the effect of reviving a General Committee whose functions had expired. The Sixth Committee could undoubtedly decide on the terms of reference of that committee immediately, but a simpler procedure would be to leave that task for the General Committee of the fourteenth session. In the third place, he did not see the point in allowing a committee to replace the General Assembly; either a committee similar to the 1956 committee should be established or the General Assembly should be left in control of its own agenda. The intention had been to regard the committee, which was a sort of extension of the General Committee, as an organ representative of the various opinions which had been expressed. He took particular exception to that view. That was perhaps true of the current session, but absolutely nothing was known about the General Committees of the future sessions of the Assembly. A decision now to place the matter in the hands of a body, the membership and general tendencies of which were unknown to

the Sixth Committee, was unthinkable. Moreover, the contemplated procedure appeared rather complicated, and, whereas the deliberations of the General Committee concerning the agenda were subject to the General Assembly's approval, there would be no appeal against negative decisions of the contemplated committee. The United States amendment therefore merely repeated in another form and made even worse that country's own initial draft resolution (A/C.6/L.402).

9. In a spirit of compromise, and because it was perfectly aware of the difficulty—more political than legal—which a definition of aggression involved, the Tunisian delegation was prepared to accept a reasonable period of reflection, but not a postponement of the question that might simply result in its complete elimination.

10. Mr. PERERA (Ceylon) asked whether a question had to be discussed for six weeks in order finally to reach the conclusion that the atmosphere was not favourable for its consideration. The Netherlands representative had emphasized the divergence of opinions (527th meeting), but writers on international law had always disagreed on basic concepts, and the smoothing-over of such differences was the reason why the General Assembly had a Legal Committee. International law, moreover, had its source not in opinions about doctrine, but in international treaties and the practice of States.

11. Referring to the joint draft resolution (A/C.6/L.403 and Corr.1), he noted that the Dominican Republic had had its name removed from the list of sponsors. He was surprised that the Dominican representative had not offered a word of explanation. With the exception of the Chilean representative, the sponsors of the draft resolution had hastened to abandon it in order to support the United States amendment (A/C.6/L.407), without, it seemed, weighing their action.

12. In his opinion, that amendment represented a step backward, since it requested the General Assembly to go back on its earlier resolutions. It called, not only for the indefinite postponement of the question, but also for the cancellation of all the work which had been accomplished by the two special committees and by the Sixth Committee. It had a political flavour which the Assembly had wished to avoid when it had entrusted the question to the Sixth Committee for consideration. Finally, it would deprive the Sixth Committee of powers which unquestionably belonged to it. The adoption of that text would allow a political coterie to settle a question of an undeniably legal character, and would create a dangerous precedent. The first United States draft resolution (A/C.6/L.402) was understandable, but the United States amendment was wholly illogical, and he appealed to the authors of the joint draft resolution to reconsider their stand on that amendment.

13. The Sixth Committee should not tie its own hands or abdicate its rights. It represented not political interests but the law. The Netherlands representative had referred to the cold war, but should nothing be done while waiting for the cold war to end?

14. The delegation of Ceylon had tried to examine the question from a purely legal standpoint. It felt that at present the important point was to define aggression as referred to in Articles 39 and 51 of the Charter, namely, in the form of armed attack; the other forms of aggression could be considered later.

15. The Ceylonese delegation would vote in favour of the six-Power amendment (A/C.6/L.404) and of the sub-amendment (A/C.6/L.406), which, together with the delegations of Egypt and Indonesia it had itself proposed. It would vote against the United States amendment (A/C.6/L.407).

16. The CHAIRMAN reminded the members of the Committee that the general debate had been concluded, and he asked them to confine their observations to the draft resolutions and the amendments thereto.

17. Mr. ALVAREZ AYBAR (Dominican Republic) said that apparently the representative of Ceylon had forgotten, or perhaps had not realized, that the Dominican delegation's reasons for withdrawing its sponsorship of the joint draft resolution (A/C.6/L.403) were implicit in the statements he had made at the 521st and 534th meetings.

18. Mr. MALOLES (Philippines) wanted to clarify the position of his delegation on certain points.

19. It agreed with the delegation of Afghanistan that the question of defining aggression should be entrusted to a committee, but disagreed with that delegation on the composition of the committee. It was afraid that a new special committee along the lines proposed in the six-Power amendment would adopt the same approach as its predecessor and arrive at the same results. What was needed, in his opinion, was a fresh approach which would justify further consideration of the question when a favourable opportunity occurred to formulate a definition of aggression.

20. He did not agree with the representative of Bulgaria that the committee which the United States proposed should be set up might claim powers which appertained solely to the General Committee. That committee would be absolutely independent of the General Committee and would have its own terms of reference, as laid down by the Sixth Committee. The purpose of the proposal that the committee should have the same membership as the General Committee of the most recent session of the General Assembly was to ensure that it should be not only representative of the diverse interests represented in the United Nations but should also conform to the very important principle of geographical representation.

21. There were no grounds for the apprehensions of the Egyptian delegation. There was no intention of settling a question of a juridical nature by a political decision, but, as in all questions of that type, there was a political aspect to the defining of aggression, and it could not be disregarded.

22. The representative of Poland had maintained that the establishment of the new committee would impinge on the prerogatives of the General Committee, and would contravene rule 13 of the rules of procedure. Mr. Maloles pointed out that, under rule 164, the rules of procedure could be amended by a simple majority decision of the General Assembly.

23. The arguments advanced by the representative of Poland against the amendment sponsored by the United States tended in actual fact to tell in its favour. The changing membership of the body responsible for studying the question, a fresh approach in considering it, and a departure from established positions were bound to bring new life to the earlier efforts.

24. It had been said that the establishment of the com-

mittee would constitute an illegal delegation of powers, but in the past the Sixth Committee—and other Committees of the General Assembly also—had appointed sub-committees with far more extensive powers than those contemplated in the amendment submitted by the United States, and yet that action had never been construed as an undue or illegal delegation of powers.

25. Referring to the observations of the representative of the Soviet Union (534th meeting), he emphasized that any attempt at defining aggression within a fixed period of time, without taking the international situation into account, was inevitably doomed to failure. Success would come only if favourable conditions were created and it proved possible to work in a spirit of mutual understanding and goodwill. That was precisely the purpose of the amendment submitted by the United States.

26. Mr. TODOROV (Bulgaria) expressed surprise that the amendment submitted by the United States had been received by certain delegations as a compromise. It was in no sense a compromise; it did not represent the majority view nor was it in any way constructive.

27. The general debate had made it clear that, in the opinion of the great majority of delegations, a definition of aggression was desirable, useful and necessary, and that those delegations—among which were the United States and the United Kingdom—which did not wish any further efforts to be made, were in a small minority. The task admittedly was not easy, but it was so important that there must be no giving way to discouragement, and an attempt to find a solution must continue to be made.

28. The new United States proposal was even less acceptable than the earlier proposal. Under the first proposal (A/C.6/L.402), every Member State retained the right to ask at any time for the inclusion of the question in the provisional agenda of a session of the General Assembly, whereas, if the more recent proposal (A/C.6/L.407) were adopted, even a majority of Member States would be unable to have the question included in the agenda, if the new committee considered the time inopportune. The adoption of that proposal would place a restriction on the right of any Member State to propose an item for the Assembly's agenda and would set a dangerous precedent. Furthermore, until the new committee decided that the time was appropriate, no attempt would be made to formulate a definition of aggression, even with regard to only certain of its forms.

29. The new United States proposal substituted for the already highly complex question of defining aggression the still more difficult and vague question of deciding when the time was appropriate for returning to the matter. The delegation of the United States had, in addition, failed to define its interpretation of the term "appropriate time", or to indicate what criteria would be adopted. On that point there were obviously a great many different opinions, based on all kinds of considerations.

30. The seven-Power draft resolution and the amendment submitted by the United States were not entirely compatible. Whereas operative paragraph 2 of the draft resolution provided for the submission of comments by Member States—presumably on the main issues involved—paragraph 3 of the United States amendment provided for the committee to study the

replies received, not in regard to those main issues but solely for the purpose of determining when it should be appropriate for the General Assembly to consider the question again.

31. The Sixth Committee should make every effort to formulate a satisfactory legal definition of aggression without any regard for political considerations. Far from promoting that aim, the purpose of the United States proposal was, in fact, to postpone consideration of the question for as long as possible. The Bulgarian delegation accordingly hoped that that proposal would be rejected.

32. Mr. ALVES MOREIRA (Portugal) said that the difficulties encountered in trying to define aggression were clearly not legal but political. A definition of aggression was necessary, but present circumstances militated against the formulation of a generally acceptable definition. As long as a majority of the permanent members of the Security Council opposed the adoption of a definition and the cold war continued, it would be very difficult to devise an objective formula which would not provide a potential aggressor with a pretext for his action.

33. An indefinite postponement would run counter to the wishes of various delegations—including the Portuguese delegation—which believed that the efforts to arrive at a generally acceptable definition should be continued. It would be better to set up a committee with political experience that would be a valuable asset in determining the appropriate time for the resumption of the work. There was no reason to suppose that the adoption of the United States amendment would amount to a deferment of the question *sine die*. The Portuguese delegation would vote in favour of that amendment, as it took into account the current international situation.

34. Mr. AHMED (India) recalled that his delegation had already stated its views on the substantive proposals (A/C.6/L.399 and A/C.6/L.401) at the 530th meeting. The other proposals before the Committee were of a procedural character.

35. The Indian delegation was not in favour of defining aggression while the international situation remained unfavourable, but the feeling of the majority could not be disregarded. That consideration had indeed prompted the amendment of the United States delegation (A/C.6/L.407), which deserved to be congratulated on its intentions. Unfortunately, that amendment set no definite date for resuming consideration of the question. It would merely delegate the power to take the actual decision on postponement to the General Committee of the thirteenth session. The only difference between the amendment and the original United States proposal (A/C.6/L.402) was that, instead of being decided on forthwith by the Sixth Committee, the adjournment would be recommended a year later and by another body. The Indian delegation could not, therefore, support that amendment, as it would constitute a most dangerous precedent. On the other hand, it would support any proposal to the effect that the efforts to find a definition would only be resumed at an appropriate moment, which would not necessarily have to be within a specified period.

36. Furthermore, the Indian delegation proposed that the words "of the definition of aggression" in the second paragraph of the preamble of the seven-Power draft resolution should be replaced by the words "of a definition of aggression".

37. Mr. GLASER (Romania) said that the debate was procedural in appearance only. In reality, it revolved around the substance of the question, and every delegation was aware of the scope of the United States amendment (A/C.6/L.407), which had been wrongly described as a compromise. Some representatives had spoken of the formal aspect of that proposal, but he would dwell rather on its substance. The General Assembly's three decisions calling for the preparation of a definition of aggression had not been lightly taken. It could hardly be contended that a definition was impossible, and should never again be mentioned merely because the United States and the United Kingdom were opposed to one. Past work and, even more, the general debate at the current session had shown that there had been some narrowing of differences, and that there was now agreement on certain very important questions of principle. Notwithstanding those developments, the United States delegation had proposed that the discussions should be discontinued in breach of the instructions of the General Assembly. Far from worsening, the general situation was constantly improving. His delegation's presence in the United Nations, from which Bulgaria and other countries had long been excluded, was in itself proof of that improvement.

38. The United States amendment was a step backward, because it proposed a return to the situation which had existed before the General Assembly's decision that a definition of aggression was possible and desirable. Acceptance of that proposal would nullify all the work on the subject accomplished by various United Nations organs, and deprive the Legal Com-

mittee at future sessions of the right to arrive at its own decision in a matter which was within its jurisdiction. In order to be worthy of consideration, an amendment should not prejudge the issue of substance, and should respect the views of all parties. The United States amendment, however, made the question dependent on the solution of all the controversial problems in the world. International tension was due to the failure of the Great Powers to agree on such questions as disarmament, the unification of Korea, Viet-Nam and Germany and the recognition of the People's Republic of China. To wait for the settlement of all those questions before even attempting to define aggression would only create a vicious circle which many delegations would not countenance. If the United States amendment were adopted, a decision would be taken in favour of one of the points of view on the substance of the matter, and that was unacceptable when postponement of the question was involved.

39. The Romanian delegation would consequently vote against the United States amendment, as it believed that the constructive work already done should not be abandoned, and that every question could be settled provided there was goodwill and a readiness to discuss the matter.

40. Mr. KENT (Turkey) said that he would support the seven-Power draft resolution and the United States amendment, which was realistic and constructive and showed a true spirit of conciliation.

The meeting rose at 12.50 p.m.