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SPECIAL COMMITTEE ON THE QUESTION OF DEFINING AGGRESSION

Sixth session

SUMMARY RECORDS OF THE ONE HUNDREDTH TO ONE HUNDRED AND NINTH MEETINGS

held at the Palais des Nations, Geneva,
from 25 April to 30 May 1973

Chairman:

Mr. TODORIĆ

Yugoslavia

Rapporteur:

Mr. KARASSIMONOV

Bulgaria

The list of representatives appears in document A/AC.134/INF.2.

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SUMMARY RECORD OF THE ONE HUNDREDTH (OPENING) MEETING

held on Wednesday, 25 April 1973, at 5.5 p.m.

Acting Chairman: Mr. RIBAKOV Representative of the
Secretary-General

OPENING OF THE SESSION (item 1 of the provisional agenda)

The ACTING CHAIRMAN welcomed the participants on behalf of the Secretary-General and conveyed to them the Secretary-General's most cordial wishes for the success of the session.

The well-known positive trends in present international life - towards the strengthening of international peace and security at the regional and world levels, towards the improvement of international relations and towards the widening of international co-operation on the basis of principles of peaceful coexistence - created a favourable atmosphere for the work of the Special Committee on the Question of Defining Aggression.

The present session was the sixth to be held by the Special Committee. The various aspects of the problem of defining aggression had been thoroughly discussed in the past and he was certain that the Committee was close to a common understanding that everything possible must be done to achieve final positive results. The Secretariat would spare no time or effort to assist the Special Committee as effectively as possible in that endeavour.

Informal consultations were in progress between representatives of the various regional groups of countries on certain procedural questions that would open the way to fruitful work on substantive matters. He understood that those representatives wished to continue their discussions for a further day.

TRIBUTE TO THE MEMORY OF Mr. GONZALO ALCIVAR, REPRESENTATIVE OF ECUADOR

On the proposal of the representative of Cyprus, the members of the Special Committee observed a minute of silence in tribute to the memory of Mr Gonzalo Alcivar, representative of Ecuador.

The meeting rose at 5.15 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND FIRST MEETING

held on Friday, 27 April 1973, at 12.50 p.m.

Acting Chairman: Mr. RYLAKOV Representative of
the Secretary-General

ORGANIZATION OF WORK (item 4 of the provisional agenda)

The ACTING CHAIRMAN announced that the consultations on procedural questions had not yet finished, and suggested that the next official meeting of the Special Committee should be fixed for Monday, 30 April 1973, at 10.30 a.m.

It was so decided.

The meeting rose at 12.55 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND SECOND MEETING

held on Monday, 30 April 1973, at 10.55 a.m.

Acting Chairman: Mr. RYBAKOV Representative of
the Secretary-General

Chairman: Mr. TODORIC Yugoslavia

ELECTION OF OFFICERS (item 2 of the provisional agenda)

The ACTING CHAIRMAN invited the Special Committee to elect its Chairman for the sixth session.

Mr. MOUSHOUTAS (Cyprus), speaking on behalf of the 13 sponsors of draft proposal A/AC.134/L.16 and Add.1 and 2, originally submitted to the Special Committee at its second session in 1969, nominated Mr. Todorčić (Yugoslavia) and said he hoped that the nomination would obtain the Committee's unanimous support.

Mr. Todorčić (Yugoslavia) was elected Chairman by acclamation and took the Chair.

The CHAIRMAN thanked the Special Committee for having chosen him as its Chairman and said he hoped that the unanimity which had been displayed in that connexion would prevail throughout the Committee's work.

Although the progress made in defining aggression was encouraging, it was nevertheless urgent that the Committee should bring its work to a successful conclusion, and it was desirable, as stated in the most recent General Assembly resolution (2967 (XXVII)), for a definition of aggression to be reached as soon as possible. In his opinion, efforts should be concentrated on formulating points which were generally acceptable, since that might pave the way for a new phase in the task of defining aggression.

He invited the Committee to elect its other officers, including the Rapporteur.

Mr. WARREN (Canada) nominated Mr. Ferrari-Bravo (Italy), as representative of a country which had participated actively in the work of the Special Committee ever since its establishment, for one of the posts of Vice-Chairman.

Mr. VELASCO-ARBOLEDA (Colombia) nominated Mr. Bustamante Muñoz (Ecuador) for one of the posts of Vice-Chairman. Ecuador had played an active part in work on the definition of aggression. Mr. Bustamante Muñoz would represent the Latin American group within the Special Committee and his presence in the Bureau would perpetuate the memory of Mr. Alcívar.

Mr. ABOU-ALI (Egypt) nominated Mr. Al-Adhami (Iraq) for one of the posts of Vice-Chairman.

Mr. Ferrari-Bravo (Italy), Mr. Bustamante Muñoz (Ecuador) and Mr. Al-Adhami (Iraq) were elected Vice-Chairmen by acclamation.

Mr. AZUD (Czechoslovakia) nominated Mr. Karassimeonov (Bulgaria) for the post of Rapporteur.

Mr. Karassimeonov (Bulgaria) was elected Rapporteur.

Mr. GUNEY (Turkey) proposed that Mr. Broms (Finland), whose experience and impartial and equitable approach would help to create the atmosphere of co-operation and understanding necessary for the conduct of the work, should be one of the Special Committee's officers and Chairman of the Working Group that was to be set up later.

Mr. Broms (Finland) was elected Chairman of the Working Group.

Mr. MOUSHOUTAS (Cyprus), speaking on his own behalf and on that of Mr. Rossides (Cyprus), former Chairman of the Special Committee, congratulated the new Chairman and all the other officers. He hoped that the unanimity which had marked their election would prevail in the Committee's discussions and that the Committee would be able to approach the decisive stage of its work in a spirit of good will.

ADOPTION OF THE AGENDA (item 3 of the provisional agenda) (A/AC.134/L.41)

The agenda was adopted.

ORGANIZATION OF WORK (agenda item 4) (continued)

Mr. RYBAKOV (Representative of the Secretary-General) recalled that the Special Committee's report on the work of its fifth session (A/8719 1/) had been considered by the Sixth Committee at the twenty-seventh session of the General Assembly. Various views had been expressed on certain aspects of the question of defining aggression, as well as on the content of the definition. The Special Committee might usefully take those views, as summarized in the report of the Sixth Committee 2/, to guide it in its work at the present session.

With regard to the Special Committee's method of work, he drew attention to the sixth preambular paragraph of resolution 2967 (XXVII), in which the General Assembly acknowledged "the common desire of the members of the Special Committee to continue their work on the basis of the results achieved". That provision corresponded to the practice of the Special Committee, which, throughout its previous sessions, had consistently proceeded in such a manner as to ensure continuity and progress in its work and to avoid, as much as possible, repetition in its deliberations. The Special Committee might perhaps concentrate on examining the summary of the report of the informal negotiating group established by the 1972 Working Group. That summary was reproduced in appendix A to the report of the Working Group, contained in annex II of the report of the Special Committee on the work of its fifth session and it had been used by the 1972 Working Group as a basis for discussion.

He hoped that in the light of the conclusions and recommendations of the Special Committee on the Rationalization of the Procedure and Organization of the General Assembly (General Assembly resolution 2837 (XXVI), annex II) and, in particular, of the recommendation on the maximum utilization of available time (ibid., chap. VI), the Special Committee on the Question of Defining Aggression

1/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No.19.

2/ Ibid., Twenty-seventh Session, Annexes, agenda item 88, document A/8929.

would find the best forms and methods of work which would enable it to start its substantive work at the outset, without diverting its attention to secondary and procedural questions.

The Secretary-General's note concerning the present session indicated that a period of five weeks, from 25 April to 30 May, was available for the session, and that during that period the Special Committee or any subsidiary body which it might wish to establish or have participate in its work could hold a total of 50 meetings, i.e. two meetings a day. The Secretariat would do its utmost to help the Special Committee in its important work.

The Secretary-General had drawn up certain directives to be followed by the Secretariat in administering the appropriations voted by the General Assembly for 1972 and in drawing up the initial budget estimates for 1973. In furtherance of his efforts to exercise restraint in committing resources, the Secretary-General had asked that the attention of all United Nations bodies should be drawn to a communication, the substance of which he communicated to the Special Committee.

The Secretary-General was preoccupied with the increasingly adverse effects of the critical financial situation of the United Nations on its reputation as well as on the efficacy of its future operations. While the relationship between that financial situation, which had many intractable aspects of a political nature, and the level of the budget estimates might be a matter of controversy, as had been demonstrated in the course of the General Assembly's discussion of the budget estimates for 1972, he was convinced that, in view of the Organization's continuing financial difficulties, some measure of budgetary restraint was unavoidable.

As far as the year 1972 was concerned, the Secretary-General had made it clear that the budgetary appropriations needed to be administered in such a manner as to achieve a final unexpended balance of \$4 million, i.e. the approximate equivalent of the anticipated shortfall in the payment of assessed contributions. As for 1973, assuming that no real progress would be made in the immediate future towards solving the deficit problem, the Secretary-General had stated that it was essential for the level of estimates to reflect the maximum self-restraint and fiscal care by the Secretariat. Even where a legitimate case could be made for strengthening particular offices and departments in 1973, the Secretary-General would not seek the necessary provisions until present difficulties had been resolved.

The Secretary-General had requested all members of the Secretariat for co-operation and was receiving a positive response. However, if the aims he sought were to be achieved, it was obvious that the full support of the various United Nations bodies where new programmes and activities originated must be enlisted. The Secretary-General felt bound, therefore, to communicate his concern and aims to all United Nations councils, commissions and committees. In his view, the application of a policy of financial restraint did not necessarily mean that new programmes and activities could not be undertaken. Rather, the aim should be to accommodate such new responsibilities within the staff resources that would become available as a result of the completion of earlier tasks or by assigning a lower order of priority to certain continuing activities. It was for the members of the Special Committee to decide the extent to which they wished to associate themselves with his pre-occupation and policies, but the Secretary-General hoped that they would wish to assist in attaining the objectives which he regarded as being in the best interests of the Organization in present circumstances.

The meeting rose at 11.25 a.m.

SUMMARY RECORD OF THE ONE HUNDRED AND THIRD MEETING

held on Monday, 30 April 1973, at 3.20 p.m.

Chairman:

Mr. PODORIC

Yugoslavia

ORGANIZATION OF WORK (agenda item 4) (concluded)

The CHAIRMAN said the Bureau, which had met earlier that day, had a number of suggestions to make regarding the organization of work. It suggested, in particular, that the Special Committee should set up a Working Group which would be open to all delegations, with equal rights of participation and decision. The Group, which would take as the basis for its work the report of the informal negotiating group reproduced in appendix A to annex II of the Special Committee's report on its fifth session (A/8719), would attempt to submit a draft definition of aggression. Interpretation services would be provided for its meetings, but not summary records. Its Chairman would report periodically to the Special Committee, either orally or in writing. If necessary, he would hold consultations with members of the Working Group, in particular with the sponsors of draft definitions of aggression, and set up one or more informal groups to consider specific problems; all delegations would, of course, be free to take part in the work of such groups. Meanwhile, private consultations between delegations were to be recommended. It was suggested that the Special Committee itself should meet at least twice a week.

The suggestions of the Bureau were adopted.

Mr. CORKERY (Australia) said that his delegation had come to the present session fully resolved to work positively with other delegations in drafting a comprehensive and balanced definition of aggression. Like the majority of States Members of the United Nations, his country was aware of the long-standing difficulties with which the Special Committee was faced, but believed that the final objective was one well worth striving for. In his view, that objective should be a definition which was the product of a consensus, since any other definition would undoubtedly prove unacceptable and unsatisfactory. The achievement of such a consensus would involve a compromise between differing and sincerely held views; the final definition, therefore, would inevitably be less than perfect and it would be unrealistic to expect it to be otherwise. His delegation, however, accepted the obligation to endeavour to reach the best possible compromise.

The meeting rose at 3.30 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND FOURTH MEETING

held on Friday, 4 May 1973, at 3.10 p.m.

Chairman:

Mr. TODORIĆ

Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) AND 2967 (XXVII)) (agenda item 5)

Report by the Chairman of the Working Group

The CHAIRMAN invited the Chairman of the Working Group to make a report to the Special Committee on the work of the Group.

Mr. BROMS (Finland), Chairman of the Working Group, said that the Group had held five meetings and that a contact group set up by it had held two meetings. The Working Group had agreed to begin its work with a first reading of the report of the informal negotiating group set up in 1972 (A/8719, annex II, appendix A). A consensus had been reached concerning the following classification of the various aspects of the definition of aggression: general definition of aggression and acts proposed for inclusion; indirect use of force and the clause on the indirect use of force and minor incidents; legal uses of force, including the question of centralization; questions of priority and aggressive intent; the right of peoples to self-determination; and the legal consequences of aggression.

The Working Group had decided to deal with the aspects in that order. Some members had stated that they could not commit themselves finally until they saw the draft as a whole. After starting its consultations on the general definition of aggression, the Group had taken the following decisions. It had agreed to postpone a decision on the words "however exerted" until a later stage, and to refer the question of the word "sovereignty" to an informal contact group composed of Colombia, France, Ghana, Romania, the Syrian Arab Republic, Turkey, the USSR and the United States of America, with the Chairman of the Working Group attending as chairman whenever possible. The Working Group had also decided to refer the question of the term "territorial integrity" to the contact group. With respect to an explanatory note on the term "State", the Working Group had felt that agreement had already been reached at the fifth session and that the question of the place to be assigned to the definition of the term was merely one of drafting which could be settled at a later date. With regard to the article concerning acts proposed for inclusion, the Working Group had decided to defer its decision on the words "including weapons of mass destruction" in sub-paragraph (b).

As to sub-paragraph (c) of the same article, the Working Group had reached a consensus on the following formulation proposed by the representative of Australia:

"The use of armed forces of one State which are within the territory of another State under an agreement with, or with the permission of, the receiving State, in contravention of the conditions provided for in the agreement or the permission or any extension of their presence in that territory beyond the termination of the agreement or revocation of the permission of the receiving State".

The representative of the USSR had reserved his delegation's position on the entire question of the inclusion of such a provision in the text of the definition.

After a general discussion on the question of the indirect use of force, the Working Group had decided to examine, in conjunction with that topic, the questions concerning the legal uses of force, including the question of centralization and the right of peoples to self-determination. That discussion had not yet been concluded.

Mr. PREDA (Romania) drew attention to the fact that, at his request, the Working Group had added to its list the two following points: "The use of the territory of one State as a basis for attack against another State" and "The attributions of the United Nations organs".

After a brief discussion in which Mr. AL-ADHAMI (Iraq), Mr. ALLAF (Syrian Arab Republic) and Mr. KOLESNIK (Union of Soviet Socialist Republics) took part, the CHAIRMAN said that he would consult the Chairman of the Working Group, with a view to deciding, in the light of the progress made by the Working Group, on the most suitable date for the next meeting of the Special Committee.

The meeting rose at 5.30 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND FIFTH MEETING

held on Wednesday, 9 May 1973, at 10.40 a.m.

Chairman: Mr. TCDORIĆ Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) AND 2967 (XXVII)) (agenda item 5) (continued)

Report by the Chairman of the Working Group (concluded)

The CHAIRMAN invited the Chairman of the Working Group to make a further report to the Special Committee on the work of the Group.

Mr. BROMS (Finland), Chairman of the Working Group, said that Contact Group 1 had submitted its report to the Working Group on 7 May 1973. The Working Group had decided not to examine that report until the Contact Group had held another meeting, following consultations between its members and their respective Governments. Four official proposals had been submitted to the Working Group by the Syrian Arab Republic, the USSR and Romania, and had been circulated to the members of the Group.

At its meeting on 8 May 1973, the Working Group had completed its first reading of the report of the informal negotiating group set up in 1972 (A/8719, annex II, appendix A). At the end of the first reading, it had decided to establish two new contact groups and had assigned tasks to them. Contact Group 2 was to examine acts proposed for inclusion in the definition of aggression, the indirect use of force, the clause on minor incidents and the right of peoples to self-determination. The members of the Contact Group 2 were Bulgaria, Cyprus, France, Ghana, Romania, the Syrian Arab Republic and the USSR; the sponsors of the six-Power draft proposal A/AC.134/L.17 and Add.1 and 2 (A/8719, annex I, C) would nominate their representatives later.

Contact Group 3 was to deal with questions of priority and aggressive intent. Its members were Czechoslovakia, Egypt, France, Guyana, Mexico, Spain, Turkey and the USSR; the sponsors of the six-power draft proposal would nominate their representatives later. Contact Group 3 had held its first meeting on 8 May and Contact Group 2 would begin its work on 9 May 1973.

In reply to a question by the representative of Guyana, he explained that, at the first meeting of Contact Group 3, the six Powers had been represented by the United States of America and the United Kingdom.

The CHAIRMAN invited delegations to comment on the report given by the Chairman of the Working Group.

Mr. KOLESNIK (Union of Soviet Socialist Republics) said that the first reading of the draft definition of aggression had revealed many differences of opinion among delegations. The Working Group had tried to iron out the difficulties and to find common ground. He now proposed to refer to some of the basic problems involved, not with a view to opening a general debate but in an attempt to find a compromise solution capable of reconciling the divergent points of view.

The definition of direct aggression and indirect aggression raised many difficulties, both legal and political, and, since neither concept was mentioned in the Charter of the United Nations, it was not essential to use those terms in the definition of aggression. In fact, since the task was to define the concept of aggression, the problem lay not in

The first reading of the draft definition of aggression had caused some disappointment, despite the expressed desire of most delegations to reach an agreement. Delegations should show greater understanding for the position of others. The greater the divergency between positions, the greater the effort needed to reconcile them. Not only had the positions not been reconciled but, what was even more disturbing, the number of expressions within brackets had increased. The Special Committee had already done much to find compromise solutions. An effort should therefore be made to avoid making completely new suggestions in the Contact Groups concerning questions on which agreement was within sight. Any innovation would have the effect of slowing down the work, since delegations would have to consult their Governments.

Mr. NELSON (United States of America) said that the views expressed by the Soviet representative seemed to indicate some confusion over the Special Committee's task. According to the Soviet representative, the concept of aggression as set forth in Article 39 of the Charter was not the same as the concept of aggression in Article 51 and a distinction had to be drawn between aggression which conferred the right of self-defence and that which did not. But the task was to define aggression, not the right of self-defence. Unless the Special Committee confined itself strictly to its task of defining what constituted aggression, it would be impossible for it to reach an agreement. It should therefore concentrate its attention without delay on the definition of the concept of aggression within the meaning of Article 39 of the Charter and refrain from complicating its task by raising questions relating to other aspects of the Charter.

The meeting rose at 11.20 a.m.

SUMMARY RECORD OF THE ONE HUNDRED AND SIXTH MEETING

held on Monday, 28 May 1970, at 10.50 a.m.

Chairman: Mr. TODORIC Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) and 2967 (XXVII)) (agenda item 5) (continued)

Report of the Working Group (A/AC.134/L.42 and Corr.1 and Add.1)

Mr. BROMS (Finland), Chairman of the Working Group, introduced the Group's report (A/AC.134/L.42 and Corr.1 and Add.1), which contained in annex I (A/AC.134/L.42 and Corr.1), the consolidated text of the reports of the Contact Groups and of the Drafting Group and the comments contained in the reports of the Contact Groups and of the Drafting Group, and in annex II (A/AC.134/L.42 and Add.1), the proposals submitted to the Working Group. The consultations and negotiations had at one point seemed to come close to a conclusion, but certain points proved to be too difficult for solution by the Working Group.

Mr. LEGNANI (Uruguay) said that it was not possible to formulate in precise terms a definition of aggression covering all possible acts of aggression in their multiple forms. On the other hand, it would be possible to arrive at a useful definition which would lay down standard principles and thus assist in the determination of the existence of serious forms of international aggression, and which could be improved by subsequent and successive amendments.

His delegation continued to give full support to the 13-Power draft proposal A/AC.134/L.16 and Add.1 and 2 (A/8719, annex II, appendix A), of which it was a sponsor but, in a spirit of compromise, it would do its best to collaborate with other delegations in working out a final text that could secure unanimous agreement without being incompatible with the fundamental principles of the said draft proposal.

The concept of aggression that the Special Committee was endeavouring to establish should flow from the provisions of the Charter of the United Nations, where it was contained implicitly. At the same time, the formulation of the concept should be a service in the application of the principles of the Charter. Consequently, the definition of aggression must necessarily cover the following two elements: the use of armed force by a State against another State, and the fact that such use was incompatible with the Charter. With that in mind, his delegation has submitted to the Working Group the proposal contained in annex II of the latter's report (A/AC.134/L.42/Add.1).

The definition set out in that proposal was followed by a number of examples of acts of aggression, which, without being exhaustive, would assist in determining the existence of aggression. The proposal then set forth various circumstances which helped to determine the existence or the gravity of the aggression and of the consequent responsibility. It was also necessary to indicate in what circumstances the use of armed force was legal and what the legal consequences of the act of aggression were. Lastly, an additional provision would state how the rules formulated in the definition and in the subsequent provisions would be interpreted.

Uruguay's contribution to the work of the Special Committee was intended to assist in the preparation of a text that would have the following advantages: it would facilitate the performance by the Security Council of the tasks entrusted to it under Articles 39, 41 and 42 of the Charter and by the General Assembly of its duties under Articles 10, 11 and 14 of the Charter; it would provide world public opinion with criteria that could be used both to determine acts of aggression unequivocally and to condemn aggressors; it would have the effect of dissuading possible aggressors from carrying out such acts; and lastly, it would pave the way to peace and security in international life.

Mr. SANDERS (Guyana) said that a definition of aggression was not only necessary and desirable but it was also possible if all delegations were prepared to make the concessions necessary to a compromise. In that context, his delegation had formally submitted, in annex II of the report of the Working Group, three proposals concerning certain important articles which might contribute usefully to the preparation of a compromise definition, either during the remaining meetings of the present session of the Committee, or at its seventh session, and preferably during the twenty-eighth session of the General Assembly.

Mr. COLES (Australia) pointed out that although the work of the Special Committee had hardly progressed during the present session, at least there had been an easing of positions and a greater willingness to negotiate, which should finally make it possible for the Committee to draw up a joint definition of aggression in accordance with the long-standing wish of the international community.

It was true that the Security Council had only on one occasion determined the existence of an act of aggression; for, as its main task was to maintain or restore peace, it had avoided too legalistic an approach to that task, since that would have complicated rather than eased it. But the international community, having laid great stress on the duty of States not to have recourse to the use of force, and on the maintenance of peace, now attached greater and greater importance to the element of justice, in the conviction that without justice there could be no lasting peace.

Undoubtedly, the elaboration of principles of law in such a sphere was extremely difficult, but the complexity of the task should not dissuade the Special Committee from undertaking it. Its members had a responsibility to make a genuine effort to reach a consensus, and for that purpose should endeavour to reduce the areas of disagreement. While it was true that there were real and reasonable interests that each State had to protect, there were other divergent interests that could be reconciled through concessions. In view of the existence of disagreements of principle, members of the Committee should refrain from attempting to impose unacceptable views, from bringing up marginal matters which could only lead to unnecessary complications, and from making proposals involving political arguments that were not directly germane to the Committee's task and might lead to rigid positions that would be difficult to change.

The Committee would also have to display great circumspection in employing the term "aggression", which was a much used and often abused word in the political vocabulary. Aggression was a grave violation of the Charter and, in certain cases, a grave crime against mankind; it was therefore incumbent on the Committee to define it rationally, objectively and scientifically, while refraining from using words in an exaggerated or inaccurate way and concentrating rather on the legal aspect of the problem.

The definition of aggression should be balanced and carefully structured, so as to be capable of valid application not only at present but also in the future, when some national interests would perhaps have undergone radical changes. That was why clear-sightedness and perception were essential, together with an avoidance of too narrow a concept of national interests as seen at any particular point in time.

Mr. GÜNEY (Turkey) expressed his gratitude to the Chairman of the Working Group, who had presided over the Group's deliberations with great effectiveness and wisdom and had made great efforts to produce a "consolidated text" out of the reports of the Contact Groups and of the Drafting Group. His delegation would confine itself to a few preliminary and general comments on the report of the Working Group, and formally reserve its position regarding the subsequent evaluation of the results obtained during the present session.

The efforts made by the unofficial Contact Groups and by the Working Group had been constructive and had made it possible to achieve more positive results than might at first have been hoped. That had undoubtedly been due to the method adopted by the Special Committee, namely that of unofficial consultation and negotiation. That approach had led to freer and more far-reaching exchanges of views through the participation of delegations that had not submitted a draft on the definition of aggression. It was to be hoped that account would be taken in future of the experience thus gained. The report of the Working Group showed sufficient progress to encourage reasonable optimism about the eventual preparation of a definition of aggression.

It should be noted that the questions of indirect aggression and of priority and aggressive intent had occupied a large place in the negotiations. Since the establishment of the Special Committee, his delegation had on several occasions emphasized the need to arrive at a complete definition of aggression, taking into account both direct and indirect aggression and bearing in mind that indirect aggression had recently acquired greater importance. It had also expressed the view that the definition of aggression should deal with the question of priority and aggressive intent. Progress had been achieved on those two extremely important points. It was true that the Working Group had not been able to reach a final agreement on the subject, but in view of the terrain covered during the negotiations, there was every reason to hope that such an agreement would emerge at the seventh session.

A mere reference to the Charter of the United Nations had facilitated the task of the Contact Group responsible for examining the legal uses of force, including the question of centralization. Moreover, the concept of a non-exhaustive definition had been widely accepted.

His delegation had already had an opportunity of indicating that it would favour the formulation of a definition that would conform to the provisions of the Charter, while strengthening those United Nations organs that were responsible for maintaining international peace and security. Such a definition, however, could be achieved only by way of consensus.

The Special Committee must now decide on the procedure to be followed. In the view of his delegation, it should take note of the consolidated text of the reports of the Contact Groups and of the Drafting Group, as well as of the report of the Working Group, and it should transmit both reports in their present form to the General Assembly, while requesting the renewal of its mandate for another session. All members of the Committee, as well as the other States Members of the United Nations, could thus examine the unofficial text of the draft definition,

reflect on that text and prepare themselves for a new effort at conciliation with a view to arriving at a definition that would be acceptable to all. That would of course not prevent delegations that so wished from proposing amendments whose text would be annexed to the Committee's report.

His delegation wished to draw the Committee's attention to the need to add to the text of the report, preferably at the beginning of the document, a paragraph that might read as follows: "In the present document, the draft articles on the definition of aggression are closely linked to the observations of the delegations that were members of the Contact Groups and should be read in the context of those observations". Such a paragraph would facilitate an understanding of the text and would avoid any misunderstanding on the part of readers and of the Governments of Member States when examining the results of the present session.

Mr. WARREN (Canada) expressed gratification at the progress achieved during the present session but regretted that it had not been possible to arrive at a final definition by way of consensus. It was to be hoped that such a result would be achieved at the twenty-eighth or twenty-ninth session of the General Assembly, and in particular at the seventh - which he trusted would be the last - session of the Special Committee in 1974. The negotiations had taken place in an atmosphere characterized by debates of the highest quality. Participants had had to recognize, however, that it was difficult to harmonize all points of view in such a short period of time. Yet it was important to maintain the momentum and atmosphere of the present session between now and the next session of the General Assembly and, if necessary, between the next Assembly session and the 1974 session of the Committee.

He mentioned with appreciation the influence exerted by the Chairman of the Special Committee and by the Chairman of the Working Group. He also wished to mention the part played by the representative of Ghana, Mr. Lamptey, who by reason of his realistic view of the situation, had been able to find a way of drafting a definition in a form which did not prejudice the essential interests of any country or group of countries.

During the present session, his delegation had come to realize that, if a consensus were to be achieved, no country or group of countries was going to emerge as victor. Each country, when examining the results, would say that the compromise achieved did not correspond to the position it had favoured but that it did not prejudice its essential interests. When a compromise was reached, its proponents would always maintain that it should be considered to form a whole and that if one of its elements was changed during consideration by the General Assembly, the whole structure fell to the ground. The consensus on the definition of aggression that was about to emerge appeared to be particularly fragile and all parties should endeavour to do nothing to destroy its balance.

In his view, the Special Committee had now identified a number of reasonable elements which, after final examination, would serve as a basis for a consensus. With regard to armed bands, most delegations appeared to recognize that no distinction could be made between direct and indirect aggression. The determining criterion was whether a sufficient volume of armed force had been used to represent an act of aggression. In a spirit of compromise, his delegation was willing to agree to the restriction of the enumerated acts of armed bands to those that involved an element of State responsibility. It could do so on the understanding that the enumeration was not exhaustive and that the Security Council would be free to conclude, in particular cases, that acts not included specifically in the list constituted aggression. It therefore seemed possible to reach a true compromise on that important issue.

Turning to the very complex question of priority and aggressive intent, he paid tribute to the representative of Guyana, who had proposed a compromise formula in which the principle of priority was given special importance without, however, leading to an automatic determination. Although his delegation would have no difficulty in accepting the inclusion of the words "in violation of the Charter", it was willing to consider their deletion if other delegations so wished, provided that, through appropriate amendments to article 2 and other relevant articles, it was made clear that the use of armed force constituted aggression only if the act was committed in violation of the Charter.

With regard to the legal uses of force, his delegation felt that although it could not agree upon a substantive interpretation of the relevant articles of the Charter, it would be possible to reach agreement on a definition by inserting an appropriate article to safeguard national positions.

His delegation, like most others, felt that nothing in the definition should lead to the inference that its application might impede the implementation of the provisions of the Charter concerning the right of peoples to self-determination; it considered, however, that any provision to be included in the definition should be worded with care and in a way that was consistent with the Charter and with the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. It was therefore necessary to amend the draft article concerned and the preambular paragraph contained in the report of the Working Group. His delegation considered that it was particularly important to delete the expression "from using force", since the Canadian Government had always believed that to endorse the use of force in a general way would be to encourage recourse to violence.

Canada was ready to co-operate in achieving a consensus that would strike a fair balance between the interests of each country and group of countries. Like many others, his delegation was disappointed that the Special Committee had not arrived at a final agreement, but felt that it was better to concentrate on what had, rather than on what had not, been achieved. The results obtained at the present session were encouraging and opened the way to a satisfactory consensus either at the twenty-eighth session of the General Assembly or at the 1974 session of the Special Committee. That would, however, involve a realistic assessment of the results of the present session and a review by all countries of the basic principles they upheld. His delegation hoped that the discussions in the Sixth Committee of the General Assembly would be a starting point for a final effort that would ensure the success of the work on a definition of aggression.

Mr. JOEWONO (Indonesia) expressed satisfaction with the fact that an agreement had been reached on the text of a general definition, but was concerned that certain points had not been mentioned in that text. His delegation had thought that all delegations had agreed to recognize that the territory of a State included its territorial waters and air space. Yet the text that had now been prepared contained no such mention, although the question had been raised in one of the proposals submitted to the Working Group.

His delegation encountered even more serious difficulties in the paragraphs concerning the acts proposed for inclusion, in particular sub-paragraph (d) of the proposed article 3 in the consolidated text, which mentioned attack by the armed forces of a State on the land, sea or air forces, marine and air fleets of another State. Although the text contained in the 1972 report of the Special Committee had already been generally accepted, the Contact Group had seen fit to add the words "merchant marine and air fleet", which had later been replaced by the words "marine

and air fleets". The inclusion of the words "merchant marine" or "marine" would be very difficult for his delegation to accept, since it was possible to envisage a situation in the future where a nation aiming to protect its living resources might be accused of committing an act of aggression. That would be tantamount to permitting powerful fishing fleets to deplete at will the fishing resources of poor nations whose economies were often vitally dependent upon such resources. His delegation therefore proposed that the Special Committee should not go back on its earlier decision and should adopt the text contained in its 1972 report.

Since achieving independence, Indonesia had, on more than one occasion, been a victim of the activities within its territory of dissident armed elements, organized and supported by foreign Powers, which had threatened its territorial integrity and exposed the country and the nation to the dangers of disintegration. Indirect aggression was not an abstract concept for Indonesia. Consequently, his delegation could not accept a definition that was incomplete, in other words one that did not deal with both direct and indirect aggression. Moreover an incomplete definition of that sort would have no value as a guide to the Security Council. It was undoubtedly difficult to identify and consequently to define covert acts of aggression, but that was an additional reason for which members of the Special Committee should endeavour to reach agreement on such a definition.

In sub-paragraph (g) of article 3, there was no longer any reference to an element that had been mentioned in paragraph 7 of the 13-Power draft proposal, namely the support given by a State to armed bands. His delegation regretted that omission, but since an agreement on the subject had been reached, it would not dwell on it further.

Indonesia had given consistent support to the cause of self-determination and independence of countries. Consequently, it would do nothing that might jeopardize that cause. On the contrary, it insisted that a provision should be included in the definition authorizing peoples subject to military occupation or any other form of foreign domination to use force and to seek or receive support and assistance in order to exercise their inherent right to self-determination. His delegation therefore regretted that the Special Committee had failed to reach agreement on the question of the right of peoples to self-determination.

Mr. ENE (Romania) said that his delegation attached great importance to the achievement of a generally acceptable definition of aggression and was firmly determined to make an active and constructive contribution to that end. The present session had produced positive results. The results would clearly have been more substantial if all delegations had shown an equal spirit of co-operation at the various stages of the Special Committee's work. However, the remaining obstacles were not insurmountable. If all members of the Committee showed understanding and respect for the viewpoints of their partners, the Committee would soon be able to fulfil its mandate. For its part, his delegation was ready to co-operate with all the others in the formulation of a definition of aggression that would reflect the interest of all nations in maintaining international peace and security.

Some delegations were still reluctant to include the term "sovereignty" in the general definition. His delegation, like the great majority of the members of the Special Committee, considered that the principle of respect for national sovereignty should appear in the definition, beside the principles of territorial integrity and political independence of States. The inclusion of the concept of sovereignty would make the scope of the definition more precise. In that connexion, his delegation

considered that the term "State" should be used without prejudice to the question of recognition or membership of the United Nations, and that it should also include the concept of "a group of States".

In view of the accumulation of weapons of mass destruction, particularly nuclear weapons, the prohibition of the use, production and stockpiling of such weapons had become a matter of grave concern and a priority issue in the field of disarmament. A number of multilateral treaties had been concluded on the subject or were in the process of negotiation. It was only natural, therefore, that the prohibition of the use of weapons of mass destruction should become a particularly important issue for the Special Committee. Consequently, his delegation believed that a general definition of aggression should contain an express provision that would stipulate an obligation upon States not to use or threaten to use weapons of mass destruction against any other State, regardless of the circumstances. Such a provision could be inserted in the existing text or become a separate paragraph in the operative part of the definition.

In the view of his delegation, the general definition should contain provisions on the legal uses of force in accordance with the letter and spirit of Article 51 of the Charter. Contemporary international law recognized that all States had the right of self-defence and that such a right could be exercised by the State or States that had been the victim of an act of aggression, irrespective of the circumstances or of the motives or justification claimed by the aggressor. Consequently, Romania insisted on the inclusion in the general definition of a paragraph stipulating that no consideration of any nature whatever, political, economic, military or other, relating to the internal or external policy of a State, could be used to justify an act of aggression. His delegation was also ready to consider in a constructive spirit any proposal on the question of priority, with a view to defining the right of legitimate self-defence against acts of aggression.

The general definition would not be complete if it did not sanction the right of peoples to self-determination. Romania had submitted a provision to that effect for consideration by the Committee.

The legal consequences of aggression should form the subject of a separate text in the general definition. The definition should also stipulate that the territory of a State, being inviolable, could not, even temporarily, be subject to military occupation or to any other display of force by another State. Consequently, no territorial acquisition or special advantage resulting from aggression could be considered lawful, nor could it be recognized. Likewise, his delegation considered that the general definition must provide that United Nations bodies should, as laid down in the Charter, continue to exercise their competence with regard to the determination of acts of aggression and the measures to be taken in order to restore international peace and security. To that effect, Romania had submitted a proposal on which it hoped an agreement could be reached at the seventh session of the Special Committee.

His delegation thought that the preamble of the definition was a particularly important feature of the text and should be thoroughly examined by all members of the Special Committee. It had therefore reserved the right to express its opinion on the whole text of the preamble at a later date.

In conclusion, his delegation maintained all the positions it had adopted and all the reservations it had formulated during the discussions that had taken place in the Working Group.

Mr. BUSTAMANTE MUÑOZ (Ecuador) expressed regret that, no doubt for lack of time, it had not been possible to achieve a consensus. He welcomed the progress referred to in the report of the Working Group and hoped that the spirit of understanding that had prevailed during the Group's work would persist and thus make it possible to achieve as quickly as possible the consensus that was sought by all.

He supported the Turkish proposal that it should be stated explicitly that the text of the draft definition of aggression should be interpreted in the light of observations made by delegations.

His delegation was ready, in a spirit of conciliation, to agree to certain concessions if they brought closer to achievement the final objective of the Special Committee, namely the preparation of a document that reflected the thinking of the international legal community on the question of aggression.

Like the representative of Indonesia, he would have wished it to have been made clear in article 1 of the consolidated text that territorial integrity also embraced that of territorial waters and air space. His delegation would not, however, press for a specific reference to that concept, provided it was clearly understood.

His delegation feared that article 2, which provided that the Security Council, taking account of the relevant circumstances and the purposes of the States involved, might conclude that no act of aggression had taken place, could constitute a form of incitement to wage a holy war. He would like it to be made clear in that article that no consideration whatsoever could in any circumstances justify aggression.

His delegation had already had occasion to indicate its disagreement with the addition in article 3 (d) of the words "marine and air fleets". The representative of Indonesia had referred to the dangers of such an addition for countries that were dependent both for the feeding of their people and in economic terms on the riches of their waters, which they were compelled to defend.

Turning to article 4, which stated that the Security Council could refrain from the determination of an act of aggression if the act concerned was too minimal to justify such action, he hoped that it would be made clear that the gravity of an act of aggression would be assessed not only on the basis of the forces used but also by their repercussions. It was possible in fact that a minimal use of force could have serious consequences and vital repercussions for the future of a people.

Noting that none of the Contact Groups had succeeded in agreeing on wording that would define aggression (article 6), he proposed a third variation, namely that aggression was a criminal violation of the peace. His delegation had submitted in writing various amendments to the second paragraph of the same article 6, which in its present form might be taken to mean that there were in fact some lawful territorial acquisitions apart from those that were not lawful.

It should be stated categorically that no territorial acquisition or other advantage would be recognized if it had been obtained by the use of force.

Mr. STARACE (Italy) said that he wished to revert to certain comments he had already made in the Working Group.

In article 4 (Provision on the non-exhaustive character of the list and the clause on minor incidents) of the consolidated text, he proposed that the second paragraph, which seemed to duplicate the first, should be deleted. Moreover, in the first paragraph, "the conduct concerned" would be preferable to "the act concerned",

to avoid repetition, while at the end of the paragraph the words "such action" should be replaced by the words "such a determination". He was, however, ready to withdraw either of those suggestions, the only purpose of which was to improve the form of the text, if they involved the danger of reopening the debate on the substance of the article.

With a view to avoiding the existing contradiction between the closely-knit and subtle wording of article 2 (Questions of priority and aggressive intent) and the categorical assertion in article 3 (Acts proposed for inclusion), without altering the delicate and complex balance achieved in article 2, he considered that article 3 should either refer to article 2 in a way that would leave no doubt as to the fact that it was applicable pari passu with article 3, or should repeat the initial phrase of article 2. The beginning of article 3 could perhaps be drafted in the following manner: "Without prejudice to the article on questions of priority and aggressive intent, any one of the following acts, regardless of a declaration of war, shall constitute prima facie evidence of an act of aggression". Again, his proposal was based simply on a desire to improve the wording and he had no intention of reopening questions of substance.

While supporting the idea contained in article 3 (f) - the need to condemn the complicity of a State with another State perpetrating an act of aggression - he did not consider that it had been expressed in a satisfactory manner. In his view, that idea would emerge more clearly if the text read as follows: "The action of a State placing its territory at the disposal of another State (or: allowing the use of its territory) for the purpose of perpetrating an act of aggression against a third State". In any event, he had already reserved his delegation's position concerning the words "with the acquiescence and agreement of the former", as contained in the present text.

Reverting to article 2, he doubted whether the expression in the French text "preuve suffisante à première vue" was a perfect translation of the English expression "prima facie evidence". In his view, the French should follow the English text faithfully, since it was the latter that the Groups had discussed, and thus refer to "preuve prima facie". In the same article, the English expression "including, as evidence, the purposes of the States involved" would be more accurately rendered in French by "y compris la preuve des buts des États impliqués".

The gap between the square brackets in article 6 bore witness to the disagreement that existed between the delegations, some of which favoured the term "a crime" while others preferred "a grave violation". If the latter expression were chosen, the preposition "against" would then be incorrect. He reminded the Committee that he had proposed the following wording for the first sentence of the article: "Aggression constitutes a grave violation of the peace giving rise to international responsibility". Such a wording would be simpler than the original and would express the idea that aggression entailed not only juridical responsibility but also political and moral responsibility, on which point everyone was in agreement.

With regard to the article 5 (The right of peoples to self-determination), his delegation still had doubts as to whether it fitted into a definition of aggression. In view of the insistence of some delegations, however, his delegation was prepared in a spirit of compromise to consider any proposal on the subject, provided that it conformed to the Charter and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. Secondly, the first sentence of article 5, which stated that none of the preceding articles might be interpreted as limiting the scope of the Charter's provisions concerning the right of peoples to self-determination, duplicated

article 7 on the legal uses of force, in which it was in fact stated that nothing in the definition should be construed as in any way enlarging or diminishing the scope of the Charter.

Turning to the order of the articles on the definition of aggression, he expressed the view that the following criteria should be followed: the text should begin with the basic provisions dealing more directly with the definition itself and the remaining provisions would then be arranged in order of logical proximity in relation to the first provisions. On the basis of such criteria, the first article would be that concerning the general definition of aggression; then would come, as article 2, the text on questions of priority and aggressive intent and, as the first paragraph of article 3, the text on the acts proposed for inclusion. The article on the non-exhaustive character of the list and the clause on minor incidents (the present article 4), the second paragraph of which would have been deleted, could become the second paragraph of the new article 3; article 4 would contain the provisions on the legal consequences of aggression and would be followed, as the new article 5, by the articles on the legal uses of force (the present article 7) and on the right of peoples to self-determination (the present article 5), which could become two paragraphs of the same article, since both had the function of delimiting the definition's field of application. Such an order would produce a reasonably organic whole.

Although it was obvious that the present formulation of the titles of the articles was totally inappropriate, an attempt to change them would give rise to the same difficulties as had been experienced during the discussions of substance. Perhaps, at the present stage of work, it would be preferable simply to delete the titles of the articles in the final report, while retaining the right to revert to the question once the work of the Special Committee had produced a generally accepted definition.

His delegation reserved its position with regard to the sixth preambular paragraph, which referred to the duty of States not to use armed forces to deprive peoples of their right to self-determination, for the reason already given that it seemed inappropriate to include a provision on the right of peoples to self-determination in a definition of aggression.

In the seventh preambular paragraph, concerning the inviolability of the territory of a State, the French text did not indicate the link between the inviolability of a territory and the fact that it could not be the object of occupation, as was made clear in the English text, which was the outcome of the discussions at the Working Group.

In the English text of the eighth preambular paragraph, the use of the adjective "lawful" as applied to "rights" was redundant; it would be better to say "rights and lawful interests".

Passing on to the part of annex I to the report of the Working Group dealing with the comments contained in the reports of the Contact Groups and of the Drafting Group, he expressed the view that it would be better to omit the reference to the two preambular paragraphs that had been proposed on the subject of the right of peoples to self-determination and the inviolability of the territory of a State in the section entitled "Article on 'The right of peoples to self-determination'", since they were both contained in the preamble. Moreover, it would seem appropriate that the comments on the parts of the preamble referring to the right of peoples to self-determination in that section should be grouped with the comments specifically referring to the preamble.

The comment in the fourth paragraph under the heading "Acts proposed for inclusion" that "one member reserved his position on the text as a whole" was ambiguous and he believed that the reservation expressed concerned only sub-paragraph (c) of article 3, and not the article as a whole.

Referring to the statement in the sixth paragraph of the report of the Working Group that it had at its 11th meeting decided to establish a drafting group, he reminded the Committee that in fact it had established a Contact Group to prepare a draft preamble. The only drafting question taken up by the Group, namely the question of the link between the article on the question of priority and aggressive intent and the article on the acts proposed for inclusion, had not been settled. It would therefore be preferable to delete any reference to the drafting aspects of the Group's activities.

His delegation had to reserve its position on the text of the definition as a whole, since various components of the definition were interdependent and because all divergences had not yet been resolved. It regretted the lack of general agreement on the definition of aggression and was ready to participate in any efforts that would enable the Special Committee to bring its difficult work to a conclusion, while recognizing that, if it were to be of use, a definition of aggression must be generally accepted, particularly by the permanent members of the Security Council.

Mr. VALLARTA (Mexico) said that, in the view of his delegation, the general definition of aggression would be acceptable if the Special Committee agreed upon a satisfactory formula for the exclusion of minor incidents and the use of force not constituting an act of aggression under the terms of Article 51 of the Charter.

Referring to the questions of priority and aggressive intent, his delegation believed that when a State committed an act of armed aggression under the terms of Article 51 of the Charter, the State which was the victim of that act and the international community were faced with an act of armed aggression and not merely with a presumption. The Security Council could nevertheless refrain from determining that an act of aggression had taken place if it thought that by doing so it would facilitate the restoration of peace. When an armed attack had occurred and when the State that had committed it was known beyond all shadow of doubt, the Security Council had no right to absolve the aggressor. All it could do was to take account of any mitigating circumstances when it decided what sanctions to apply. In the view of his delegation, the intent of an aggressor could not be an integral part of the definition of aggression. The aggressive intent, if any, of the victim did not confer the right to use force. If a State was aware of the aggressive intent of another State, it should address itself to the Security Council and refrain from acting on its own behalf. Preventive war and war waged on the ground of alleged "good intentions" were acts of aggression.

With regard to article 3 on acts proposed for inclusion, his delegation believed that the paragraph in which those acts were listed should be interpreted in the light of the provisions concerning minor incidents that were not acts of aggression. It also believed that the use of weapons of mass destruction should be specifically mentioned in sub-paragraph (b). With regard to sub-paragraph (c), it considered that a State which allowed foreign troops into its territory had the right unilaterally to decide on the withdrawal of such forces, whether or not such a withdrawal was provided for in the agreement covering the entry of the foreign troops into its territory.

With regard to the provision on the non-exhaustive character of the list and the clause on minor incidents (article 4), his delegation feared that the formula submitted by the Contact Group, which stressed the non-exhaustive character of the list of acts of aggression, might lead to the abuse of the right of individual or collective self-defence in response to acts other than those listed among the acts of aggression. In the view of his delegation, incidents of minor importance and acts that did not constitute an act of aggression under the terms of Article 51 of the Charter were not acts of aggression, and that fact should be clearly and directly expressed in the definition. There could perhaps be a reference to the fact that the Security Council could refrain from determining an act of aggression if the act concerned was too insignificant. His delegation saw no point in stating that the Security Council could determine that acts other than those listed might constitute acts of aggression.

Turning to the article on the legal consequences of aggression, and the formula on the inadmissibility of territorial acquisitions obtained by the use of force, he stated that it should be laid down with the utmost clarity that States had a duty not to recognize such acquisitions either de jure or de facto. The recognition of such acquisitions itself constituted a violation of international law.

Mr. OHTAKA (Japan) expressed his satisfaction at the fact that the Contact Group had been generally in favour of the addition of the words "marine and air fleets" in article 3 (d). Japan, for which the maintenance of its sea transport links was a vital interest, considered that an attack by the armed forces of a State against the merchant navy of another State was a grave threat to security.

He was glad that the efforts of the Working Group had made it possible to bring positions closer together and to identify remaining problems, even though it had failed to achieve a consensus. He was particularly glad that many members of the Contact Group had insisted on referring to the indirect use of force among the acts proposed for inclusion.

With regard to priority and aggressive intent, he wished to study the text more closely, particularly the phrase "prima facie evidence of an act of aggression" in article 2. He expressed the hope that the Committee would be able to demonstrate the spirit of compromise and conciliation that would be necessary to arrive at a consensus at its seventh session, which, it was to be hoped, would be its last.

Mr. BROMS (Finland), referring to the article on legal uses of force and in particular to the paragraph under the heading "Additional text" at the end of the part of annex I of the Working Group's report dealing with the comments contained in the reports of the Contact Groups and of the Drafting Group, asked for it to be stated that one member had reserved his position. He had considered it fit to do so because of the absence of another member. Secondly, he supported the Turkish suggestion that it should be made clear, in connexion with the article on the right of peoples to self-determination, that the text concerned had not been available until the last stages of the consultations.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND SEVENTH MEETING

held on Monday, 28 May 1973, at 3.30 p.m.

Chairman: Mr. TODORIĆ Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) AND 2967 (XXVII)) (agenda item 5) (continued)

Report of the Working Group (continued) (A/AC.134/L.42 and Corr.1 and Add.1)

Mr. CHOUUREF (Algeria) said that, although the Special Committee had not been able to complete its task, it had nevertheless achieved substantial and encouraging results during the session, in which a cordial atmosphere had prevailed.

His delegation had no immediate comments on the preamble of the consolidated text (A/AC.134/L.42 and Corr.1, annex I) but requested the deletion in article 2 of the words "in contravention of the Charter" on the ground that they implied both that the aggressor was identified a priori and that there were cases in which the Charter of the United Nations allowed the first use of armed force against another State.

His delegation supported the ideas developed by the representative of Mexico at the 106th meeting and agreed that a State could not use the real or supposed intentions of another State as a pretext for waging a preventive war against that State. It was essential that a definition of aggression should be as precise as possible and his delegation therefore felt that subjective and vague notions such as that of intent should be excluded. For the same reasons, his delegation wished to enter a reservation on the last seven words of the text of article 3 (g).

Lastly, his delegation wished to propose an addition to article 5: the insertion of the words "and particularly article 3 (g)" between the word "paragraphs" and "may" at the beginning.

Mr. AZUD (Czechoslovakia) said he believed the Special Committee had made good progress during the session and that the seventh session could produce a definite result.

Speaking on behalf of Algeria, Czechoslovakia, Egypt, Iraq, Romania and the Syrian Arab Republic, he introduced and read out the text of a draft resolution which was sponsored by those countries and possibly others and was to be circulated under the symbol A/AC.134/L.45. He said that the first and second preambular paragraphs of the draft resolution referred to decisions taken by the General Assembly at different sessions, the third preambular paragraph referred to the progress achieved by the Special Committee during its present session and the last preambular paragraph expressed the Special Committee's desire to complete its work. There was only one operative paragraph, which contained the Special Committee's recommendation that the General Assembly should invite the Committee to resume its work as soon as possible but not later than in 1974. He expressed the hope that the text of the draft resolution would be acceptable to all members of the Committee.

Mr. YÁÑEZ-BARNUEVO (Spain) said that his delegation did not feel unduly pessimistic about the achievements of the session and, like the delegations of Turkey, Canada and Czechoslovakia, was encouraged by the progress that had been made.

His delegation had played an active part in attempting to reach agreement and had stressed the fact that, since the concepts of territorial waters and air space were the subject of well-known principles of international law, there was no need for the report to contain an express reference to them. He supported the remarks made in that connexion by the delegations of Indonesia and Ecuador (106th meeting). His delegation had, since 1968, been convinced of the usefulness of a definition of aggression and had stated its willingness to do all it could to contribute to an agreement on the subject.

His delegation would have to reserve its position on the report of the Working Group, as a whole, pending study of that document by the Spanish Government. It fully supported the statement made by the delegation of Uruguay at the 106th meeting.

His country attached special importance to the questions of self-determination and territorial integrity. Although the principle of self-determination was referred to in the preambular paragraphs and in article 5 of the consolidated text, the principle of territorial integrity had not been mentioned. Yet the latter principle was well documented in fundamental United Nations texts, including General Assembly resolutions 1514 (XV), 2625 (XXV) and 2734 (XXV). In his view, a reference to territorial integrity should be included in article 5.

Referring to article 4, he said that it was unsatisfactory to attempt to combine in one text the "de minimis" clause, the proposition that the acts listed were typical rather than exhaustive, and the reservation of the powers of the Security Council, which was in any event contained in article 2. The "de minimis" wording was imprecise and would also have the more serious effect of negating the result of six years' work. The last preambular paragraph already stated that the question whether an act of aggression had been committed must be considered in the light of all the circumstances, but it seemed unsound to reduce the scope of the definition to a mere guideline of doubtful legal value. In dealing with a matter as delicate as the question of aggression, no body, including even the Security Council, should be granted powers that were in effect arbitrary and he referred, in that connexion, to the well-established principle "nullum crimen sine lege". He also observed that the wording of paragraph 4 removed the force of the fourth preambular paragraph concerning the rights and duties of the organs of the United Nations.

Consequently, he proposed that the concept that the list of acts was not exhaustive should be placed in its logical position, namely in the introductory sentence of article 3.

The powers of the Security Council could be protected by adopting a more general wording, such as had been used in the 13-Power draft proposal, the 6-Power draft proposal and the Soviet Union draft proposal (A/8719, annex I), and the wording should be coupled with a reference to the Council's functions, responsibilities and duties.

The "de minimis" principle would best be placed at the end of the list of acts as an exclusion clause, but first it was important to agree on the precise drafting, so that it was known what was meant by isolated minor incidents.

His delegation considered the present text of article 4 unacceptable, as it was incompatible with the concept of a definition of aggression.

Since there was not sufficient time to discuss the report of the Working Group and to widen the areas of agreement, he agreed with the Turkish delegation's suggestion (106th meeting) that the Special Committee should take note of the work accomplished and transmit the results to the General Assembly. In that way, Governments would have an opportunity to consider the progress achieved and decide upon the best course to adopt with a view to preparing a generally acceptable definition of aggression. His delegation had no objection to the draft resolution introduced by the representative of Czechoslovakia.

In conclusion, he repeated the view expressed by his delegation in 1968, namely that the Special Committee should not regard the definition of aggression as an end in itself but as an important element in the establishment of a valid system of collective security and in the establishment of world peace and justice.

Mr. KHAIRAT (Egypt) said that his delegation believed some slight progress had been made and that the Special Committee should pursue its efforts to achieve a definition of aggression, particularly for the sake of the smaller countries of the third world which had suffered most from colonialism and aggression.

Referring to the seventh preambular paragraph in the consolidated text, he proposed the deletion of the words "in contravention of the Charter", on the ground that it was not possible to violate the territory of a State in accordance with the Charter. However, his delegation would have no objection to a reference to a particular article of the Charter if that were considered desirable.

He proposed that article 2 should end with the words "relevant circumstances", as the remaining words of the article were unacceptable to his delegation.

Referring to article 3, he reminded the Special Committee that his delegation had agreed to the inclusion of sub-paragraph (c) in a spirit of compromise and subject to the inclusion of a safeguard clause relating to the right of peoples to self-determination. It could not, however, accept the final words of the sub-paragraph, "or its open and active participation therein".

His delegation also proposed that the words "resulting from aggression" in article 6 should be replaced by the words "resulting from the threat or use of force".

In conclusion, he said that the Working Group's report would be carefully considered by his Government and he therefore wished to reserve the latter's position on the text as a whole.

Mr. GRAHAM (Norway) said that his delegation welcomed the report of the Working Group, which was thorough and objective. It would study the report most carefully and submit its views on it to the General Assembly at its twenty-eighth session. He was gratified to note that the Special Committee had made some progress, however small.

The meeting rose at 4.10 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND EIGHTH MEETING

held on Tuesday, 29 May 1973, at 3.20 p.m.

Chairman: Mr. TODORIC Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) AND 2967 (XXVII)) (agenda item 5) (continued)

Report of the Working Group (continued) (A/AC.134/L.42 and Corr.1 and Add.1, A/AC.134/L.43)

Mr. DEEG (Sudan) said that the consolidated text of the reports of the Contact Groups and of the Drafting Group (A/AC.134/L.42 and Corr.1, annex I) might not be perfect, but it was a useful attempt to reconcile the different views of members of the Special Committee. His delegation was confident that, given a little more political will, the Special Committee would achieve the objectives set forth in General Assembly resolution 2330 (XXII).

He welcomed the position consistently adopted by the majority of the members of the Special Committee that the definition of aggression should not in any way abridge the rights of a people fighting for self-determination and freedom. For the Special Committee to decide otherwise would be a negation of what its members stood for and of many United Nations resolutions. In that connexion, his delegation expressed a special commendation of the positive role played by the representatives of Ghana, Finland and the USSR during the preparation of the consolidated text.

He appealed to all delegations not to magnify existing differences, lest they should mar the consensus that was emerging in the Special Committee.

The CHAIRMAN, speaking as representative of Yugoslavia, welcomed the goodwill which had been shown by all delegations and the efforts they had made to reconcile their various positions. Considerable progress had been made towards a general definition of aggression.

The general definition in the consolidated text prepared by the Working Group was acceptable to his delegation, since it included fundamental principles which were in accordance with the legal system of the United Nations.

His delegation considered that all the proposals for the amendment of article 2 in the consolidated text, relating to questions of priority and aggressive intent, should be included in the report of the Special Committee. It was, in its view, essential to include in the text of article 3 (b) the words "including weapons of mass destruction", for the reasons already given by other delegations. It was also necessary to insert the words "a crime" between the words "constitutes" and "against" in article 6 (Legal consequences of aggression), since that was the technical expression used in legal instruments of the United Nations.

Those points should be resolved and the proposed text should be further improved, with a view to making it generally acceptable. In that connexion, his delegation thought that the 13-Power draft proposal (A/8719, annex I, B) was of particular importance, in view of the diversity of legal systems which it represented and the possibility of compromise which it offered.

The draft prepared by the Working Group nevertheless represented a solid basis for future work. His delegation was prepared to consider any proposal for a reasonable compromise that would be in accordance with the principles of the Charter of the United Nations.

Mr. ALLAF (Syrian Arab Republic) said that modest progress had been made during the session, but the Special Committee was not yet able to present a universally agreed definition of aggression to the General Assembly. That should cause neither surprise nor disappointment, for the international community had been trying to achieve that difficult aim for many years.

He was pleased to note, however, that the need for and the benefits to be gained from such a definition were no longer questioned. However, attempts were being made to extend the scope of the definition and to include in it various qualifications and loopholes which would nullify its purpose by making it possible for an aggressor to use it as an alibi. There was no other way to explain the insistence of certain delegations that the determination of an act of aggression must be made subject to the element of intent or the fact that they did not regard the first use of force in violation of the Charter as something more than prima facie evidence of an act of aggression.

The consolidated text submitted by the Working Group was not in fact consolidated, since the preamble contained a number of incoherent and imprecise provisions and the paragraphs relating to the definition were assembled in a confusing pattern. Furthermore, the text did not indicate clearly the opinion prevailing in the Working Group or the contact groups. Not a single one of the articles concerned could be regarded as a wholly agreed text. In his delegation's opinion, the Special Committee should indicate, after adequate discussion, the preference of the majority of the members with regard to a given text. However, that was no longer possible because of the limited time available. It would be desirable, as the Turkish representative had suggested, for the Special Committee to draw attention to the close relationship between the articles and the relevant comments in the report of the Working Group. It might even be preferable to insert the comments immediately after the article concerned.

In general, his delegation supported the concept of a basic text relating to the general definition and was glad to see a clear reference to "sovereignty" in article 1. Nevertheless, it still had some minor difficulties. The words "however exerted" would have been more acceptable if they had related to the word "aggression" and not to the words "armed force". Aggression was to be condemned, however it might be exercised, but the mere use of armed force could be legitimate in certain cases. His delegation did not think that there was any need to include the words "however exerted" in the general definition. In fact, it was puzzled by the fact that the delegations which insisted on the inclusion of those words were the very same ones which stressed the discretionary authority of the Security Council to refrain from regarding any act as an act of aggression in certain circumstances. Another ambiguous point involved the words "as set out in this definition" at the end of article 1. His delegation had no objection to those words if they were intended solely as a link between the general definition and the other articles in the instrument. However, his delegation reserved its position if the aim was to limit the effect of article 1 or to impose additional qualifications on the determination of an act of aggression as such if the use of armed force was contrary to the Charter.

With regard to the questions of priority and aggressive intent (article 2), he said that the initiation of the use of force had always been the practice of an aggressor. The Charter contained no provisions which permitted a State to take the initiative in the use of force. The only possible case in which the first use of force was legitimate was when the Security Council itself undertook enforcement measures, under its own authority, in accordance with Chapter VII of the Charter. His delegation therefore supported, in principle, the first part of the article relating to priority, but failed to understand why the first use of armed force in contravention of the Charter constituted only prima facie evidence of an act of aggression and not the act of aggression itself. His delegation's view was that any use of armed force in contravention of the Charter constituted aggression. He wished to know whether the text of article 2 meant that if two States used force in contravention of the Charter, the one which used it first was less guilty. Even more incomprehensible to his delegation was the second part of the article, under which it would be possible for the Security Council to regard a first use of force in contravention of the Charter as a legitimate or a non-aggressive act because of relevant circumstances. In his delegation's view, no body or organ - not even the Security Council - could whitewash the use of armed force in contravention of the Charter. It was true that the Security Council had full authority to determine the existence or non-existence of an act of aggression, but it could do so only in the light of the conformity or non-conformity of that act with the provisions of the Charter.

Another matter for concern was the fact that, according to article 2, not only could the Security Council declare a first use of force in contravention of the Charter to be an innocent act in the light of relevant circumstances, but that it could even base its exoneration of the act on the purposes of the State involved. His delegation had always rejected the theory of preventive war or pre-emptive action, which it considered to be a flagrant violation of the Charter.

Referring to article 3 (Acts proposed for inclusion), he said it was essential that the utmost care should be taken in drawing up the illustrative list of acts which, in the context of the illegal use of force, might be characterized automatically as acts of aggression. It was dangerous to widen the scope of such acts or to place acts such as bombardment, blockade or invasion on the same level as less important acts such as infiltration by irregulars or armed bands. For, while there was no doubt that invasion, bombardment, blockade, military occupation and similar acts constituted aggression when undertaken first and in contravention of the Charter, the large majority of subversive and infiltration activities came rather under the category of minor acts, and at the worst constituted a threat or a breach of the peace, a condition which did not give rise to the automatic application of the right of legitimate self-defence under Article 51 of the Charter. The danger became more serious when the provisions relating to such indirect and less important use of force was broadened to include ambiguous and subjective concepts such as support, encouragement or participation.

The applicability of article 3 (g) depended on the degree of gravity or the magnitude of the action of armed bands. In addition to the great difficulties involved in ascertaining the degree or magnitude of such an action, which was usually covert, there was always a tendency by the State subjected to that form of subversive act to exaggerate its threat and its effects in order to justify any retaliatory action taken. His delegation therefore opposed the substance of that paragraph, as well as its inclusion in the list of acts of aggression.

It also had strong reservations with regard to article 3 (f). While it did not object to the concept stated, it felt that the form of action referred to should not be placed on the same footing as the direct and flagrant acts of aggression mentioned in sub-paragraphs (a), (b), (c) and (d) of article 3. His delegation shared the reservations of others which objected to the inclusion in article 3 (d) of the words "marine and air fleets", because of the danger that a minor and isolated incident might be transformed into an act of aggression and because of the possibility that that inclusion might affect the inherent right of countries to dispose of their natural resources and to exercise full authority over their territory, territorial waters and air space.

His delegation accepted the general reference to the use of weapons in article 3 (b), but considered that the article should also include wording along the following lines: "the use of nuclear, bacteriological or chemical weapons or any weapons of mass destruction is prohibited. Such use aggravates the act of aggression and renders it more severely punishable under international law". In his delegation's opinion, the wording of the fifth preambular paragraph was unsatisfactory. With regard to article 3 (e), he said that his delegation had supported the insertion, after the word "termination", of the words "in any way".

With regard to article 5, there had been general agreement that the concept of self-determination of peoples should be included in the definition of aggression. His delegation could not accept any definition which would regard the use of force by people struggling to achieve self-determination as an act of aggression. He supported the text of article 5 and endorsed the Spanish representative's view (107th meeting) that the article should also include a reference to territorial integrity.

With regard to the legal consequences of aggression (article 6), his delegation believed that aggression constituted a crime against international peace and would like to see the article so describe it. He noted that no reference was made in the comments in the Working Group's report following the consolidated text to a proposal to include in the article a statement that the territory of a State was inviolable and should not be the subject of occupation or other measures of force. In his delegation's view, the mere reference in the preamble to the inviolability of the territory of a State was not sufficient. It was also essential to stress the duty of States not to recognize territorial gains resulting from the use of force or aggression. In that connexion, he supported the proposal that the word "aggression" in the second sentence of article 6 should be replaced by the words "the threat or use of force".

He supported draft resolution A/AC.134/L.43, introduced at the 107th meeting by the representative of Czechoslovakia, because the Committee had not yet successfully completed its task and could not now abandon its work. His delegation did not think that the General Assembly should be requested to invite the Special Committee to resume its work during a session of the Assembly, since that would create difficulties for small delegations like his own. The Special Committee should, however, resume its work as soon as possible.

Mr. DABIRI (Iran), expressing his delegation's satisfaction with the progress achieved during the session, said that areas of agreement had been expanded, thanks to the imaginative approach adopted by those delegations which had submitted new proposals on a number of the questions before the Special Committee. The method of work adopted had also been beneficial, even though the untiring efforts of the Contact Groups and the Drafting Group had not yet produced the final result, which he hoped might be achieved at the seventh session.

The consolidated text was a further cause for satisfaction, although his delegation, like others, would reserve its final position on it until the twenty-eighth session of the General Assembly.

The Committee had now reached a delicate stage of its work, but there was reason to be encouraged, and his delegation would support a recommendation that the General Assembly should once again renew the Committee's mandate.

Mr. CHAJMONT (France) said that although his delegation did not see any reason for losing confidence in the possibility of eventual agreement on a definition of aggression, it was realistic enough to recognize that nothing decisive had emerged from the present session. It was necessary to bear in mind, however, that, in diplomacy and international relations, agreement could not always be reached rapidly, as the experience of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States had shown.

His delegation had made a considerable effort at conciliation during the session, but there were some fundamental points on which it could not compromise. An example was the second preambular paragraph of the consolidated text. He deplored the absence in that paragraph of a reference to Article 51 of the Charter. Although he could understand the position taken by some delegations concerning Article 39, the fact remained that a State which was the victim of an armed attack did have the right of individual or collective self-defence until the Security Council was able to react. Consequently, no definition of aggression could refer only to Article 39, in isolation from Article 51. He also considered that the penultimate preambular paragraph was too weak, too indirect and badly placed.

His delegation was critical of article 2, on the subject of priority. It had already accepted a weakening of its original position and now felt that two notions were being introduced that were both contradictory and unduly vague. The words "in contravention of the Charter" were also illogical in the context of that article and the last phrase, "including, as evidence, the purposes of the States involved," was unsatisfactory. History had recorded countless examples of military intervention held at the time to be justified, but that was now considered a supreme evil. He believed that the wording on the question of priority should be made as strong as possible. In that connexion, the wording following article 7 of the consolidated text might be added to article 2.

Referring to article 3 (g), he said that his delegation had opposed the inclusion of the reference to armed bands, groups, irregulars or mercenaries on the ground that the terminology was not sufficiently precise. Its acceptance of article 3 (g) was subject to it being made absolutely clear that such groups were genuinely involved in

an international situation, in other words in an incident between two States. In its view, the presence of armed bands in a territory could be a threat to the peace without necessarily being an act of aggression. It considered that the opening expression "The sending by or on behalf of a State" was as far as it was possible to go if interference in the domestic affairs of States was to be avoided.

Referring to article 5, he said that his delegation entered a reservation on the inclusion of the words "or any form of foreign domination", which might be used as a pretext for attempts at secession within a political entity or for an attack on the territorial integrity of a State.

It was perhaps inevitable that in the discussion each delegation should be concerned about the particular position of its own Government, but it was to be hoped that, in future, Member States would be able to take a broader view.

It seemed obvious that the Committee could not now cease its work, and his delegation therefore fully supported draft resolution A/AC.134/L.45.

Mr. VALLARTA (Mexico) said that the false impression that a contradiction existed between the Mexican proposal in annex II of the report of the Working Group (A/AC.134/L.42/Add.1) and the Mexican comments on the report of the Working Group was due to the fact that his delegation's proposal represented a compromise. His delegation believed that the first use of force was prima facie evidence, since, for example, a nuclear attack might be launched by accident, and in such a case, unless there was evidence to the contrary, it could certainly be assumed that the attack was deliberate and therefore constituted an act of aggression.

He also proposed that, when Latin terms were used in the English text of a proposal, as was the case with the Mexican proposal he had referred to, they should not be translated into French and Spanish, since Latin was a useful means of overcoming linguistic barriers.

Mr. AL-ADHAMI (Iraq) expressed his delegation's regret that article 1 of the consolidated text contained no reference to territorial waters and air space. The first point in article 2 was, in his view, satisfactory, but he considered the remainder of the article unclear. He was also sorry that article 3 (b) did not mention weapons capable of causing catastrophic destruction. His delegation found it necessary to enter a reservation on the position of article 3 (g) and on its last seven words. It supported the proposal by Egypt (A/AC.134/L.42/Add.1, section F) to replace, in article 6, the words "resulting from aggression" by the words "resulting from the threat or use of force".

Mr. DANSTONE (United Kingdom) said that agreement on the question of defining aggression had eluded the Special Committee, although at one point agreement had seemed very close. His delegation saw no real need to make specific reference in the definition to the principle of priority. It assumed that the question of which State first used force would be taken into account by the Security Council. The question of priority might have a place in a balanced definition, but it was difficult to see immediately what that place would be. He had been disappointed when the measure of agreement reached on the question in the Contact Group had not been maintained.

Just as other delegations had sought to meet its views on the question of priority, so had the United Kingdom delegation endeavoured to meet their views on the question of intent, which was an important factor when the Security Council was called upon to determine whether an act of aggression had occurred. Again, it was disappointing that the measure of agreement reached in the Contact Group had subsequently evaporated.

On the question of the direct use of force, he supported the principle that a State might not do covertly what it might not do overtly. His delegation, however, had no wish to make a State responsible for aggression when it could do nothing to stop the misuse of its territory by others. On the other hand, it could not agree that a State should escape responsibility if it were itself at fault. If a State encouraged and supported groups of people engaged in acts of force against another State, it could not escape responsibility for the injury to the other State. No State was entitled to stand back and allow its territory to be used for acts of aggression if it was in a position to prevent such acts. Consequently, his delegation would like to see a less ambiguous formulation concerning the indirect use of force by a State than was at present contained in article 3 (g).

With regard to article 5, his delegation felt that the right of peoples to self-determination did not necessarily have a place in a definition of aggression. In its view, it would be irresponsible for the Committee to adopt a formula which would encourage national liberation movements to resort to the use of force or which would suggest that outside States were entitled to give them support and assistance in their use of force. His delegation had similar difficulty with the sixth preambular paragraph. It did not believe a State could be prevented from using armed force to counter the use of force by persons or groups seeking to change the law by violent means. Nevertheless, because of the strong views held on the subject by other delegations, his delegation had come to the sixth session prepared to accept a clause such as that contained in paragraph 10 of the 13-Power draft proposal and which appeared as alternative 1 in appendix A to annex II of the Special Committee's report on its fifth session (A/8719, p.17). It regretted that some of the sponsors of the 13-Power draft proposal had now increased their demands.

There were other problems on which a consensus had not been reached, but if agreement could be reached on the major issues, he felt that some solution to those problems could be found. Care should be taken not to destroy what had so far been achieved. His delegation had had the impression that one or two members had not been altogether happy at the prospect of a consensus when agreement had seemed close. But now all delegations should consider the results achieved and decide what the next steps should be, no-one's interest would be served either by the failure of the Special Committee or by its work extending indefinitely into the future.

Mr. KARASSIIEONOV (Bulgaria) said that the report of the Working Group and the present discussion in the Special Committee would give the General Assembly a clear picture of the substantial progress which had been made and would enable it to take a decision on the future work to be undertaken. As a result of the improvement in the international situation, there appeared to be a real possibility of reaching a consensus on the definition of aggression.

The consolidated text constituted a preliminary draft definition and indicated the basis on which a consensus could be achieved.

The Bulgarian delegation nevertheless wished to reserve its position on certain parts of the consolidated text. In principle, it endorsed the preambular paragraphs. It had no substantive objection to article 1, but would have preferred a wording closer to the text of the Charter of the United Nations. Article 2 was satisfactory, in so far as it endorsed the principle of priority as prima facie evidence of an act of aggression, but it was still very vague. In principle, his delegation could accept sub-paragraphs (a) to (f) of article 3. It could not, however, endorse the present text of sub-paragraph (g). In a spirit of compromise, it was prepared to agree to the assimilation of the sending by a State of armed bands or groups which carried out invasion or attack against another State to an act of aggression, but it had strong reservations about a text which would enable a State to have recourse to preventive war without evidence that the other State was the perpetrator of an act of aggression.

With regard to article 4, his delegation endorsed the de minimis principle and a text which reaffirmed the competence of the Security Council. It was prepared to endorse the text of article 5, in so far as it was satisfactory to States which had attained independence after a fierce struggle against colonialism. It supported those who were pressing for clear and unambiguous guarantees of the inalienable right of peoples oppressed by colonial régimes to resort to force in order to rid themselves of the colonial yoke, and to receive support and assistance in their national liberation struggle. In connexion with article 6, he observed that, since aggression was a crime against international peace, that fact should be stated in the definition.

In making those observations on the consolidated text, his delegation expressed its willingness to continue to contribute to efforts to secure agreement on a generally acceptable definition. For that reason, it supported draft resolution A/AC.134/L.43.

Mr. NELSON (United States of America) said that his delegation welcomed the progress made by the Special Committee and valued much of the new thinking which had distinguished the present session. His Government intended to study the results of the session with great care, bearing in mind the fact that the Special Committee might complete its work at the seventh session.

His delegation had already made known its reservations regarding some of the preambular paragraphs of the consolidated text. With regard to article 2, for well-known reasons, it attached great importance to the concepts of intention or purpose as an element of aggression. The most appropriate wording would be one which took into account in a balanced manner the elements of priority and intent. His delegation had been prepared to accept the wording proposed by the delegation of Guyana, with the exception of a very minor change: instead of the phrase "The Security Council may conclude that a determination of aggression would not be justified ...", his delegation would have preferred the words "The Security Council shall consider whether a determination would be justified ...".

Sub-paragraphs (a) to (f) of article 3 were now generally acceptable to his delegation. In connexion with sub-paragraph (d), he was pleased that reference had been made to marine and air fleets, because they represented an important element of a State's sovereignty. The main issue which remained before the Special Committee related to indirect uses of force, which constituted an important form of aggression.

It was important to remember that the Committee was endeavouring to give the Security Council guidance in determining whether an act of aggression had occurred. It was not defining situations which warranted the exercise of the right of self-defence. As drafted at present, the introductory sentence of article 5 was inconsistent with the rest of the article.

The points covered in the first paragraph of article 4 were very important and his delegation was pleased that they had been incorporated in the text. Article 5 was a different matter. It had been introduced at a late stage and had been opposed by many delegations. The present text amounted to an authorization of violence in a broad range of situations and was therefore totally out of place in an instrument intended to further the cause of peace. Article 6 was of doubtful relevance to a definition of aggression; a statement of the legal consequences of aggression was unnecessary and could not possibly be comprehensive. There was a danger that such an abbreviated statement of a general principle might provide a pretext for unilateral action by States to vindicate what they might consider to be their legal rights outside the ambit of the United Nations. The subject of legal consequences was extremely complex and should be dealt with separately. His delegation welcomed article 7, which made it clear that the purpose of the definition of aggression was not to define the scope of the right of self-defence and that it did not affect the Charter provisions concerning the legal use of force.

Mr. BIGOMBE (Uganda), referring to draft resolution A/AC.134/L.43, proposed that the words "as soon as possible but not later than" should be deleted from the operative paragraph, since they were misleading.

Mr. GÜNEY (Turkey) said that, because of the relaxation of international tension, the Special Committee would be able to continue its work in more favourable conditions in 1974. His delegation therefore supported draft resolution A/AC.134/L.43. It also supported the Ugandan representative's proposal.

Mr. OHTAKA (Japan) said that his delegation also supported the Ugandan proposal, as it would be difficult to hold a session of the Special Committee during the twenty-eighth session of the General Assembly.

Mr. COLES (Australia) also expressed support for the Ugandan proposal.

Mr. VALLARTA (Mexico) noted that, unlike in previous years, his delegation was not co-sponsoring a draft resolution recommending that the General Assembly invite the Special Committee to resume its work. It had taken that position in order to give the Mexican Government complete freedom to express a view on the future work of the Committee.

Referring to the United Kingdom representative's reference to the need for a balanced definition, he observed that the primary need was for an objective definition which was close to the text of the Charter and technically flawless.

Mr. ALLAF (Syrian Arab Republic) said that, although he had not had an opportunity of consulting the other sponsors of the draft resolution, his delegation agreed with all the observations made concerning it and could accept the Ugandan representative's proposal.

Mr. WARREN (Canada) said that his delegation had reservations about the Ugandan proposal and would have preferred some reference to a time-limit for the completion of the Special Committee's work. It would, however, be prepared to support any text which was acceptable to the Special Committee as a whole.

Mr. LAMPTEY (Ghana), supported by Mr. MOUSHOUTAS (Cyprus), suggested that further consideration of draft resolution A/AC.134/L.43 should be postponed until after the adoption of the Special Committee's report.

It was so decided.

The meeting rose at 5.45 p.m.

SUMMARY RECORD OF THE ONE HUNDRED AND NINTH (CLOSING) MEETING

held on Wednesday, 30 May 1973, at 10.50 a.m.

Chairman:

Mr. TODORIĆ

Yugoslavia

CONSIDERATION OF THE QUESTION OF DEFINING AGGRESSION (GENERAL ASSEMBLY RESOLUTIONS 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) AND 2967 (XXVII)) (agenda item 5) (concluded)

Report of the Working Group (concluded) (A/AC.134/L.42 and Corr.1 and Add.1)

Mr. MOUSHOUTAS (Cyprus) considered that the report of the Working Group (A/AC.134/L.42 and Corr.1 and Add.1) showed that considerable progress had been accomplished by the Special Committee during its sixth session, even if, on certain points, there were divergences of opinion which at first sight appeared to be irreconcilable.

A consensus had almost been achieved on the preamble, on the general definition of aggression and on the acts proposed for inclusion, and opposing views on the questions of armed bands, priority and aggressive intent had been brought closer. Undeniable progress had been made in those areas, and his delegation shared the optimism expressed in paragraph 12 of the Special Committee's draft report (A/AC.134/L.44). Right up to the end of the session, there had been grounds for hoping that an agreement might be reached and that the definition prepared by the Working Group would be generally acceptable. Failure, so close to the goal, had caused understandable disappointment to many delegations, including his own, but he was nevertheless convinced that the Committee should pursue its difficult task of trying to attain practical results, while dealing with abstract and general terms.

In the opinion of his delegation, the Special Committee should bring a new spirit to the study of the question as a whole and approach it in a more positive and more objective manner. Delegations should re-examine their positions during the period up to the seventh session, bearing in mind that the Committee had been entrusted not merely with defining aggression in the context of the present international situation but also with drawing up an instrument that could withstand the test of time and be capable of adaptation to future changes in international relations. Nothing stayed the same, and it was important to ensure that the legal shield that countries sought to set up around their national interests should not, in the not too distant future, become a sword turned against them to destroy them. All countries should endeavour to make their position even more flexible and should avoid treating imaginary national interests as principles. His delegation, for its part, intended to display in the future the same spirit of compromise that the 20 Powers had promised to adopt during the work of the Committee at its sixth session.

The Special Committee should continue its informal contacts, and for that purpose he proposed that an informal contact group, composed of representatives of the sponsors of the three draft definitions (A/8719 annex I), the Arab States and the States that did not support any of the draft definitions should be formed in New York and should meet at appropriate intervals until the General Assembly began its next session and decided upon the future work of the Special Committee. That would make it possible to consolidate the progress achieved during the sixth session and it would also save time, provided that there was continuity of representation within the group. His delegation was ready to participate in the work of such a group and in the work of the

Special Committee itself. No effort should be spared to produce a definition of aggression, for, without one, international order and the rule of law would have to give way to anarchy. A generally acceptable definition of aggression would contribute to strengthening the system of international security and would promote the development of international law.

A definition of aggression would not be a magic wand but it would at least have a restraining influence on possible aggressors, and the very fact that a consensus had been reached would encourage the hope that the world was ready to abandon the concept of force as an instrument of policy, and would thus have an important psychological effect. If a definition of aggression was adopted, the decisions of the Security Council would be based on an existing legal definition and would no longer depend on arbitrary considerations that inevitably contained political and subjective elements. He wished to congratulate the Chairman of the Special Committee and the Chairman of the Working Group on their untiring efforts and great competence, which had greatly contributed to the progress of the Committee's work.

Mr. KOLESNIK (Union of Soviet Socialist Republics) said that at its current session the Special Committee had made significant progress towards the formulation of a definition of aggression. The consolidated text of the reports of the Contact Groups and of the Drafting Group (A/AC.134/L.42 and Corr.1, annex I) represented a milestone that should not be underestimated. It was true that many delegations had reserved their position on particular parts of the text, but that was inevitable at the present stage of negotiations. The progress achieved was a direct consequence of the improvement in the international climate resulting from the efforts of the peace-loving peoples of the world. Tribute should be paid to the Chairman of the Special Committee, who had managed to establish an excellent atmosphere and organization of work. He also commended the efforts of the Chairman of the Working Group, Mr. Broms (Finland), who had presided not only over the Working Group but also over the four Contact Groups.

Since his delegation's final position could not be set out until the consolidated text had been considered by the Soviet Government, he wished to make some provisional comments on the proposed text. The almost unanimous adoption of the preamble was evidence of the Special Committee's unity on the legal and social importance of the definition. The elaboration of the preamble had played a positive role in bringing together the different points of view on a number of fundamental elements of the operative part of the definition.

The agreement reached on the general definition of aggression (article 1) seemed satisfactory. His delegation maintained its reservation on the phrase "however exerted". At the present stage of the work, when certain cases of indirect use of force were listed, the retention of those words was not justified, even if account was taken of the arguments advanced by those delegations that insisted on their being included in the general definition. Paragraph (b) of the explanatory note might also be deleted, since it was obvious that the definition was equally applicable when the act of aggression was perpetrated by several States. Moreover, that paragraph introduced into the definition the notion of a collective aggressor, which could serve as an escape clause for military blocs taking collective action.

The questions of priority and aggressive intent had caused controversy in the Special Committee, and the text of article 2, which was a compromise between two opposed positions, represented substantial progress. In that connexion, a tribute should be paid to the representative of Guyana, who had made a valuable personal contribution to the solution of that difficult problem. It was to be hoped that the delegations which

had maintained their reservations on article 2 would study the text again and would approve it. He felt, however, like the representative of France (108th meeting), that the text still contained a number of contradictions. He therefore wished to propose that the words "in contravention of the Charter" should be replaced by the words "as set forth in this definition" or by a reference to article 3.

Article 3, which contained a list of the acts proposed for inclusion, was acceptable. Nevertheless, his delegation had certain doubts as to sub-paragraph (e), which dealt with the armed forces of one State which were stationed in the territory of another State. That sub-paragraph was contrary to the principles that the Special Committee had chosen as a basis for the list, namely that the list, not being exhaustive, should refer only to the most characteristic and most obvious acts. Sub-paragraph (e), however, did not refer to a new and particularly characteristic form of aggression and the idea contained in that sub-paragraph was already expressed elsewhere in the article.

In sub-paragraph (f), the reference was to the participation of a State in an act of aggression, in other words an act of aggression perpetrated by two or more States. Yet that paragraph was drafted in such a way as to give the impression that the responsibility for the aggression lay with the State that had placed its territory at the disposal of the other. The wording of that paragraph should therefore be reconsidered.

His delegation was not altogether satisfied with sub-paragraph (g), particularly the words "or its open and active participation therein". It was, however, ready to consider the inclusion of such wording in a broader text.

His delegation's observations should not be interpreted as ignoring the importance of a rapprochement of views on the subject of the list of acts of aggression. Efforts must be continued to reach the agreement that the Special Committee appeared to be about to achieve, particularly now that it had succeeded in eliminating a number of difficulties which had for several years seemed insurmountable.

His delegation approved of article 5, on the right of peoples to self-determination, which was an amalgamation of the text proposed in 1972, the Syrian proposal and a whole series of comments formulated by various delegations. It would have no objection to incorporating Sudanese proposal in the text. The reason why his delegation had not insisted on its acceptance was that it hoped that a spirit of mutual understanding would prevail. That article might in fact become the subject of a far-reaching understanding not only on the right of peoples to self-determination but also on other important questions. The door to such an understanding remained open.

The difficulty in article 6 (Legal consequences of aggression) arose from the fact that the members of the Special Committee had not been able to agree on what constituted aggression. The Soviet Union considered that the appropriate term was "a crime against international peace". Many legal instruments, including the Charter of the Nürnberg Tribunal, contained a statement of that kind. The argument that the term "crime" introduced the notion of criminal responsibility on the part of a State was not very convincing.

The agreement reached on article 7 concerning the legal uses of force was a success - particularly bearing in mind that that question had divided the Special Committee for years. At the present session, the Committee had acted reasonably by confining itself to a formulation that could not cause any divergence of views on a

question which went beyond its mandate. The fact was that the Committee had been entrusted with the task of defining aggression, not the legal use of force, although of course there was a link between the two questions.

His delegation regarded the draft definition annexed to the report of the Working Group as a provisional text, arrived at by concerted effort, that could still be examined at the seventh session. It reserved the right to propose amendments or clarifications to some of the provisions if the need arose.

It was regrettable that some delegations, having noted that the Special Committee had not been able to achieve a consensus on all points, had drawn the conclusion that it should give up its task. Such a decision would be a grave error. In fact, considerable progress had been achieved, the climate of international détente was propitious for the continuation of the work on aggression, and to abandon that work would benefit only those countries that had no interest in a peaceful settlement of disputes and would attempt to use force to solve international problems. The adoption of a definition of aggression would have the effect of strengthening the principles of the Charter of the United Nations and would prevent possible aggressors from advancing trumped-up pretexts for committing acts of aggression against peace-loving peoples. Aggressors would no longer have means of camouflaging their aggression and deceiving world opinion. Consequently, his delegation was in favour of continuing the work of the Committee. In his view, the definition of aggression was a matter of concern to all peace-loving peoples and particularly to the developing countries.

Mr. LAMPTEY (Ghana) recalled what had been said by Mr. Gromyko, the representative of the USSR, in September 1967, when he had requested the inclusion on the agenda of the General Assembly of an item entitled "Need to expedite the drafting of a definition of aggression in the light of the present international situation". The USSR representative had particularly emphasized that the recent increase in acts of armed aggression against sovereign States or against peoples fighting for their independence might cause a new world conflict and that a definition of aggression, if it was coupled with a vigorous condemnation of aggression and the adoption of preventive measures, could be a powerful contribution to the cause of peace. The Government of Ghana was in full agreement with the thoughts expressed by that representative and had participated in the efforts to have the question of the definition of aggression included in the agenda of the General Assembly. It had participated in the debates on the question in the General Assembly and in the Sixth Committee, and had actively worked for the establishment of the Special Committee on the Question of Defining Aggression. Being conscious of the urgent need for and the value of a definition of aggression and also convinced that it was possible to draw up such a definition, his delegation, at considerable expense, had then participated fully and actively in the work of the Special Committee.

When, at the twenty-third session of the General Assembly in 1968, he had introduced in the Sixth Committee the Special Committee's report on its first session, he had expressed the conviction that the Committee could bring its work to a successful conclusion the following year. During the consideration of the report, the representative of Canada, Mr. Beesely, had sketched the outline of what, in his view, the definition should be. He had felt that, first of all, a definition of aggression should maintain the discretionary powers of the Security Council and leave it a certain flexibility to take action; it should be based on the Charter and should recognize the fundamental role of the Security Council in the maintenance of international peace and security; it should cover the question of intent and should avoid being so general as merely to reproduce the provisions of the Charter, while at the same time not being so specific as to appear exhaustive. In short, the definition should not restrict the power of the

Security Council to determine the existence of any threat to the peace, breach of the peace or act of aggression; it should be applicable to direct and indirect aggression; it should accept all the exceptions to the prohibition of the use of force provided for in the Charter, but no others; it should apply to States and to entities that could be considered States and it should be politically acceptable to the majority of the members of the General Assembly and to all the permanent members of the Security Council.

The time had come, five years after the establishment of the Special Committee, to ask to what extent the work of the present session of the Special Committee responded to the views of the representative of Canada, which largely represented those of the Western group of countries.

The Special Committee had emphasized, in articles 2 and 4 of the consolidated text, the discretionary power of the Security Council. Those articles and the relevant preambular paragraphs were designed to give the Security Council the necessary flexibility. The wording proposed by the Committee was consistent with the spirit of the Charter, while at the same time avoiding a slavish repetition of its provisions. The question of intent was expressed in article 2 in the words "in the light of other relevant circumstances". Article 3 (g) was a satisfactory provision on indirect armed aggression. In article 7, the Special Committee had tried to avoid coming into conflict with the provisions of the Charter concerning cases in which the use of force was lawful. Sub-paragraph (a) of the explanatory note to article 1 covered in a subtle way the question of the applicability of the provisions of the definition to all entities that could be considered to be States. In short, the definition of aggression prepared by the Special Committee responded to a large extent and in a specific manner to the views of the Western group of countries and should, perhaps with a few small amendments, be acceptable to the vast majority of representatives in the General Assembly.

He reminded the Committee of the position adopted by his delegation on the exclusion of indirect aggression, on the principle of priority and aggressive intent, and on the right of peoples to self-determination. It welcomed the provisions in the consolidated text on those complex notions, since, thanks to the astute formula suggested by the representative of Guyana for article 2, the questions of priority and aggressive intent were presented in a realistic and equitable manner, even though the words "the purposes of the States involved" served no purpose. The question of whether those words should be retained or deleted had divided members of the Committee. He was surprised that delegations for whom aggressive intent could be envisaged only from the point of view of preventive war should forget that it was nevertheless desirable to have a provision calling for evidence of intent, in cases where the illegal use of force was less clear and less well defined. He was also amazed that some delegations should insist on retaining at all costs wording that others found unacceptable, even when the concept contained in the wording they desired was already embodied in the text. He reminded the Committee that, regardless of the wording of the provision, the Security Council would have all the elements before it when determining whether an act of aggression had taken place.

His delegation approved of the provision on indirect aggression in article 3, which was finely balanced, and its original opposition to the inclusion of such a concept had been due not to lack of appreciation of the gravity of such acts in certain circumstances, but to its belief that indirect aggression contained constituent elements other than the use of armed force and that the minimal use of force should not be considered as being equivalent to aggression. Since then, his delegation had become aware of the concern of a large number of countries, including some from the third

world, which had either suffered or feared armed attacks of that kind. Nevertheless, it had made sure that the definition stressed the responsibilities of the State, so that the passive response of a State should not constitute aggression and so that it should be made abundantly clear that the magnitude of the use of armed force in such situations must be such as to equal the other acts of aggression set forth in the definition.

Since it had expressly provided for the indirect use of force and since it was aware that such use was an essential factor for peoples struggling for their independence, the Special Committee should draft a clause on self-determination that left no doubt as to its intentions and in no way weakened the right of peoples to have recourse to all possible means in order to obtain their just inheritance in accordance with the Charter of the United Nations. The argument of the irrelevance of self-determination to aggression as contained in the Charter was fallacious, since all the provisions of the Charter were interdependent. That was the thought behind the sixth preambular paragraph and article 5. In his view, acceptance of the proposed definition did not mean the abandonment of the principles contained in the 13-Power draft proposal (A/8719, annex I, B), which had been phrased in such a way as to take account of the concerns and principles of others.

In his delegation's opinion, the Special Committee had acquitted itself with honour of a difficult task and the text that it had prepared should, subject possibly to certain amendments and additions, be adopted by the General Assembly. The Committee should now conclude its efforts, since it seemed to a very large degree that it had done everything that it was possible to do in the circumstances. There were still some differences to be overcome, but, in his view, the Special Committee lacked the necessary political will to make that last effort, and it would perhaps be best to transmit the question to a more appropriate body.

Participation in the work of the Special Committee had been for Ghana and other countries a heavy financial burden; that perhaps explained why many Governments had not been represented at the present session. Ghana had decided to take part because it felt that the end of the Committee's work was in sight, but there were now grounds for believing that that might not be the case. Consequently, although it would not oppose an extension of the Committee's mandate if that was the general wish, Ghana would give its support only to a resolution providing for active consultations leading up to a session to be held during the General Assembly or, if that proved impossible, the extension of the Committee's mandate to 1974, but no longer. The success of the Committee's work now depended solely on the political will of Governments and the favourable attitude of the permanent members of the Security Council, which, as was clear from the views expressed by the representative of Canada in the General Assembly at its twenty-third session and from the statements that had been made, was essential. As he had said in the Sixth Committee in November 1968, the small countries, and particularly the developing countries, looked to the members of the Security Council for constructive leadership on that question and could not accept the theory that the wishes of the United Nations, which Member States collectively represented, could be blocked by one or more members of the Security Council. In such circumstances, the will of the overwhelming majority of States must prevail.

His delegation wished to commend the attitude of the Soviet delegation, which had taught the Committee by its example what the essence of compromise should be. The French delegation too had played an extremely useful and constructive role. He also wished to congratulate the Chairman of the Special Committee and the Chairman of the Working Group on their outstanding contribution to the work of the Committee.

His delegation regretted, however, that it could not say that the Special Committee had taken the maximum advantage of the propitious international climate in which its work had taken place.

Mr. BROMS (Finland) said that he had noted a certain tone of disappointment in the final statements made by delegations, which was particularly understandable in view of the fact that the Special Committee had appeared to be on the point of succeeding in its task.

His delegation, for its part, while hoping that the more optimistic delegations would be right in believing that the Special Committee's work could be concluded at the seventh session, recognized the difficulty facing a group of 40 or 50 jurists who, when attempting to arrive at a consensus, had to take constant account of the respective positions of their Governments.

The definition of aggression was surely possible, but it could be achieved only if delegations realized that the main beneficiaries of the task would not be one or two States but rather the United Nations and mankind as a whole and that that would be the case only if all those concerned agreed to make certain sacrifices, in the knowledge that there could be no perfect definition of aggression. The particular wishes of delegations could not be submitted or considered as ultimatums without the danger of paralyzing the Committee's work.

His delegation had refrained from presenting too demanding requirements as to the content of the final draft, because it felt that the definition, like many other definitions in international law, should be dynamic rather than static. The draft definition that would eventually emerge would certainly be capable of improvement by some other body, but the least the Special Committee could do would be to give the future drafters a basis to build on.

In conclusion, as Chairman of the Working Group, he wished to thank the members of the Secretariat for their untiring efforts, to congratulate the officers of the Committee and those delegations that had participated actively in the work of the Groups and to stress how much he had appreciated the efforts made by certain members of the various Groups to reach a consensus.

ADOPTION OF THE REPORT (agenda item 6) (A/AC.134/L.44)

Mr. KARASSIMEONOV (Bulgaria), Rapporteur, introducing the draft report of the Special Committee (A/AC.134/L.44), said that the final version of the report would contain three annexes: annex I would contain the text of the main draft proposals before the Special Committee; annex II would contain the text of the report of the Working Group together with its two appendices, namely, the consolidated text of the reports of the Contact Groups and of the Drafting Group and the text of the proposals submitted to the Working Group; annex III would contain the list of representatives. For reasons of economy, those three annexes would appear only in the final version of the report of the Special Committee to the General Assembly.

Mr. ALLAF (Syrian Arab Republic) said that before adopting its report, the Special Committee should take a decision on the subject of the report of the Working Group (A/AC.134/L.42 and Corr.1 and Add.1). He pointed out that the consolidated text had not received general support, as was clear from the comments contained in the reports of the Contact Groups and of the Drafting Group, at the end of annex I to that report, following the consolidated text, and should form an integral part of the

articles set out in that text. In its present form, the report of the Working Group did not show clearly enough that the consolidated text had not been generally accepted (only one phrase was placed between square brackets) nor explain the correlation of the consolidated text and the comments. He therefore proposed that the comments should be placed immediately after the individual articles to which they referred, instead of being grouped together after the articles.

Mr. ROSENSTOCK (United States of America) said that it would be better to add to paragraph 10 of the Special Committee's draft report (A/AC.134/L.44) a sentence along the following lines: "Several delegations stressed the importance of reading the report of the Working Group in its entirety, including the comments".

Mr. KOLESNIK (Union of Soviet Socialist Republics) said that the report of the Working Group had already been decided upon by the Group, which had taken note of it at its 14th meeting. Consequently, it could not be amended by the Special Committee, which could only make comments on it.

His delegation considered the United States proposal satisfactory.

Mr. YÁÑEZ BARNUEVO (Spain) proposed a compromise solution consisting of leaving the report of the Working Group as it was; indicating in the draft report of the Special Committee, at the appropriate point in chapter II, that the proposals contained in the report of the Working Group should be read in the context of the comments regarding them; amending paragraph 13 of the draft report of the Special Committee to read: "... the Special Committee took note of the report of the Working Group;" and lastly indicating in chapter III of that draft report that the Special Committee had adopted its own report to the General Assembly.

Mr. GÜNEY (Turkey) said that the proposal that he had made at the 106th meeting, namely to include at the beginning of the consolidated text a paragraph indicating that the draft articles on the definition of aggression were closely linked to the observations of the delegations that had taken part in the Contact Groups and Drafting Group, had not been a formal proposal, but merely a suggestion, and that he was ready to support any solution that would reflect what had taken place during the discussions of those Groups.

After an exchange of views in which Mr. BATSTONE (United Kingdom), Mr. CHAUMONT (France), Mr. ALLAF (Syrian Arab Republic) and Mr. STRUCKA (Czechoslovakia) took part, Mr. RYBAKOV (Representative of the Secretary-General) confirmed that the Working Group, being master of its procedure and its decisions, had taken note of its own report and that the Special Committee could not amend it. He pointed out that the draft report of the Special Committee set forth the opinions expressed on the subject of the report of the Working Group by means of a reference to the relevant summary records (A/AC.134/L.44, para.12). If the Committee did not consider that reference sufficient, it could deal with the question in its own report, as several delegations had suggested.

Mr. SANDERS (Guyana) proposed that paragraph 13 of the draft report of the Special Committee should be amended to read: "At its 109th meeting, on 30 May 1973, the Special Committee took note of the report of the Working Group and emphasized that, in the absence of an agreement on a draft definition, each proposed article must be read together with the comments thereon".

Mr. ALLAF (Syrian Arab Republic) accepted that proposal.

The amendment of the representative of Guyana to paragraph 13 was adopted.

The draft report of the Special Committee (A/AC.134/L.44), as amended, was adopted.

Draft resolution submitted by Algeria, Czechoslovakia, Egypt, Iraq, Romania and the Syrian Arab Republic (A/AC.134/L.43)

Mr. STRUČKA (Czechoslovakia) said that the sponsors of the draft resolution had accepted the Ugandan amendment to delete in the operative part the words "as soon as possible but not later than".

Mr. LAMPTEY (Ghana) said that his delegation wished to express reservations regarding the draft resolution.

Draft resolution A/AC.134/L.43), as amended, was adopted.

CLOSURE OF THE SESSION

The CHAIRMAN declared the sixth session of the Special Committee on the Question of Defining Aggression closed.

The meeting rose at 1.10 p.m.