



**REPORT OF THE SPECIAL COMMITTEE
ON THE QUESTION OF DEFINING AGGRESSION**

25 April — 30 May 1973

GENERAL ASSEMBLY

OFFICIAL RECORDS: TWENTY-EIGHTH SESSION

SUPPLEMENT No. 19 (A/9019)

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NOTE

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I. INTRODUCTION

1. At its 2037th plenary meeting, on 23 September 1972, the General Assembly decided to include in the agenda of its twenty-seventh session the item entitled "Report of the Special Committee on the Question of Defining Aggression". The report covered the work of the session of the Special Committee held at United Nations Headquarters in New York from 31 January to 3 March 1972. 1/ The Assembly also referred this report to the Sixth Committee, 2/ which considered it at the 1346th to 1352nd, 1366th, 1368th and 1371st meetings, held between 31 October and 24 November 1972. At its 2109th plenary meeting, on 14 December 1972, the General Assembly adopted resolution 2967 (XXVII), which reads as follows:

"The General Assembly,

"Having considered the report of the Special Committee on the Question of Defining Aggression on the work of its fifth session held in New York from 31 January to 3 March 1972, 1/

"Noting the progress so far achieved by the Special Committee in its consideration of the question of defining aggression and on the draft definition, as reflected in its report,

"Considering that it was not possible for the Special Committee to complete its task at its fifth session,

"Considering that in its resolutions 2330 (XXII) of 18 December 1967, 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970 and 2781 (XXVI) of 3 December 1971 the General Assembly recognized the widespread conviction of the need to expedite the definition of aggression,

"Considering the urgency of bringing the work of the Special Committee to a successful conclusion and the desirability of achieving the definition of aggression as soon as possible,

"Noting also the common desire of the members of the Special Committee to continue their work on the basis of the results achieved and to arrive with due speed at a draft definition in a spirit of mutual understanding and accommodation,

"1. Decides that the Special Committee on the Question of Defining Aggression shall resume its work at Geneva, in accordance with General Assembly resolution 2330 (XXII), as early as possible after 1 April 1973;

"2. Requests the Secretary-General to provide the Special Committee with the necessary facilities and services

"3. Decides to include in the provisional agenda of its twenty-eighth session the item entitled 'Report of the Special Committee on the Question of Defining Aggression'."

1/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 19 (A/8719).

2/ For the report of the Sixth Committee, see Official Records of the General Assembly, Twenty-seventh Session, Annexes, agenda item 38, document A/8929.

2. In accordance with this resolution, the Special Committee on the Question of Defining Aggression, whose composition is given in paragraph 2 of its report on the work of its 1968 session, 3/ met at the United Nations Office at Geneva from 25 April to 30 May 1973. With the exception of Haiti, Madagascar, Sierra Leone and Zaire, all of the States members of the Special Committee were represented: Algeria, Australia, Bulgaria, Canada, Colombia, Cyprus, Czechoslovakia, Ecuador, Egypt, Finland, France, Ghana, Guyana, Indonesia, Iran, Iraq, Italy, Japan, Mexico, Norway, Romania, Spain, Sudan, Syrian Arab Republic, Turkey, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yugoslavia. The list of representatives attending the 1973 session was issued under the symbol A/AC.134/INF.2.

3. At its 102nd meeting, held on 30 April 1973, the Special Committee elected the following officers:

Chairman: Mr. Dragutin Todorčić (Yugoslavia)

Vice-Chairmen: Mr. Luigi Ferrari-Bravo (Italy)
Mr. Teodoro Bustamante Muñoz (Ecuador)
Mr. Riyadh Al-Adhami (Iraq)

Rapporteur: Mr. Matey Karassimeonov (Bulgaria)

The Special Committee also elected Mr. Bengt H. G. A. Broms (Finland) as one of the Committee's officers and Chairman of the Working Group (see para. 6 below).

4. The session was opened on behalf of the Secretary-General by Mr. Yuri M. Rybakov, Director of the Codification Division of the Office of Legal Affairs, who also represented the Secretary-General at the session and acted as Secretary of the Special Committee. Mr. Chafic Malek served as Deputy Secretary. Miss Jacqueline Dauchy and Mr. Joseph Kobialka served as Assistant Secretaries.

5. At the same meeting, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the question of defining aggression (General Assembly resolutions 2330 (XXII), 2420 (XXIII), 2549 (XXIV), 2644 (XXV), 2781 (XXVI) and 2967 (XXVII)).
6. Adoption of the report.

3/ Official Records of the General Assembly, Twenty-third Session, agenda item 86, document A/7185/Rev.1.

6. At its 103rd meeting, also held on 30 April 1973, the Special Committee decided to establish a Working Group open to all delegations with the same rights of participation and decision. The Working Group was requested to attempt to prepare and submit to the Special Committee a draft definition of aggression, taking as the basis of its work the report of the informal negotiating group reproduced in annex II, appendix A, of the Committee's report on its 1972 session. 1/ The Chairman of the Working Group was requested to report periodically to the Special Committee, either orally or in writing. One or more groups could be established within the Working Group to consider specific questions.

II. DRAFT PROPOSALS BEFORE THE SPECIAL COMMITTEE

7. The Special Committee had before it the three main proposals submitted to it at its 1969 session, namely, the draft of the Union of Soviet Socialist Republics (A/AC.134/L.12), the new 13-Power draft (A/AC.134/L.10 and Add.1 and 2) and the 6-Power draft (A/AC.134/L.17 and Add.1 and 2). The texts of these three draft proposals are reproduced in annex I to the present report.

8. At its 107th meeting, on 28 May 1973, the Special Committee also had before it a draft resolution submitted by Algeria, Czechoslovakia, Egypt, Iraq, Romania and the Syrian Arab Republic (A/AC.134/L.43), the text of which reads as follows:

"The Special Committee on the Question of Defining Aggression,

"Bearing in mind General Assembly resolutions 2330 (XXII) of 18 December 1967, 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970 and 2781 (XXVI) of 3 December 1971, which recognized the need to expedite the definition of aggression,

"Bearing in mind also that in its resolution 2967 (XXVII) of 14 December 1972 the General Assembly considered the urgency of bringing the work of the Special Committee to a successful conclusion and the desirability of achieving the definition of aggression as soon as possible,

"Noting with satisfaction the further progress so far achieved in formulating both individual elements of a definition of aggression and the definition as a whole during the session of the Special Committee held in 1973,

"Believing that such progress makes it a practical possibility for the Special Committee to elaborate a generally acceptable draft definition of aggression at its next session,

"Noting also the common desire of the members of the Special Committee to complete their work on the basis of the results attained and to arrive at a final draft definition,

"Recommends that the General Assembly, at its twenty-eighth session, invite the Special Committee to resume its work as soon as possible but not later than in 1974."

9. At the 108th meeting, on 29 May, the representative of Uganda orally proposed to delete, in the operative paragraph of the draft resolution, the words "as soon as possible but not later than". This amendment was accepted by the co-sponsors.

III. REPORT OF THE WORKING GROUP

10. At its 106th meeting, on 28 May, the Special Committee had before it a report submitted by the Working Group (A/AC.134/L.42 and Corr.1 and Add.1). The report reproduced, as annex I, a consolidated text of the reports of the contact groups and of the drafting group and, as annex II, proposals and comments submitted during the current session, respectively, by Ecuador, Indonesia, the United States of America, Algeria, Egypt, Guyana, Italy, Mexico, Romania and Uruguay. The report of the Working Group, together with its annexes, is reproduced in annex II to the present report.

11. The report of the Working Group was considered by the Special Committee at its 106th to 109th meetings, held between 28 and 30 May 1973.

12. Most of the representatives who spoke expressed their satisfaction with the substantial progress made and the positive results achieved during the current session of the Special Committee. It was observed that constructive and progressive efforts were carried out within the framework of the Working Group, where the informal nature of discussion gave way to a broad exchange of views; progress had been made in the Working Group which permitted hopeful optimism about the completion of the further work on the definition. It was further noted that, in the course of the present session, the positions of the delegations had become clearer and many gaps were narrowed. The atmosphere was much better and much more willingness was demonstrated to find a compromise definition; this change of atmosphere would bear its fruits and it was imperative that its momentum be maintained to accomplish the task of the Committee. While recognizing that the results achieved in the course of the current session were encouraging, some representatives pointed to a lack of agreement on certain important points and stressed the urgent need to exercise the final effort of goodwill in order to reach a compromise. The views expressed on the report of the Working Group are reflected in the relevant summary records (A/AC.134/SR.106 to 109).

13. At its 109th meeting, on 30 May, the Special Committee took note of the report of the Working Group but emphasized that, in the absence of agreement on a draft definition, each proposed article must be read together with the comments thereon.

IV. RECOMMENDATION OF THE SPECIAL COMMITTEE

14. At its 109th meeting, the Special Committee adopted without objection the draft resolution submitted by Algeria, Czechoslovakia, Egypt, Iraq, Romania and the Syrian Arab Republic (A/AC.134/L.43) as orally revised (see para. 9 above), which read as follows:

"The Special Committee on the Question of Defining Aggression,

"Bearing in mind General Assembly resolutions 2330 (XXII) of 18 December 1967, 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970 and 2781 (XXVI) of 3 December 1971, which recognized the need to expedite the definition of aggression,

"Bearing in mind also that in its resolution 2967 (XXVII) of 14 December 1972 the General Assembly considered the urgency of bringing the work of the Special Committee to a successful conclusion and the desirability of achieving the definition of aggression as soon as possible,

"Noting with satisfaction the further progress so far achieved in formulating both individual elements of a definition of aggression and the definition as a whole during the session of the Special Committee held in 1973,

"Believing that such progress makes it a practical possibility for the Special Committee to elaborate a generally acceptable draft definition of aggression at its next session,

"Noting also the common desire of the members of the Special Committee to complete their work on the basis of the results attained and to arrive at a final draft definition,

"Recommends that the General Assembly, at its twenty-eighth session, invite the Special Committee to resume its work in 1974."

ANNEX I

Draft proposals before the Special Committee

A. Draft proposal submitted by the Union of Soviet Socialist Republics
(A/AC.134/L.12)

The General Assembly,

Basing itself on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,

Noting that according to the principles of international law the planning, preparation, initiation or waging of an aggressive war is a most serious international crime,

Bearing in mind that the use of force to deprive dependent peoples of the exercise of their inherent right to self-determination in accordance with General Assembly resolution 1514 (XV) of 14 December 1960 is a denial of fundamental human rights, is contrary to the Charter of the United Nations and hinders the development of co-operation and the establishment of peace throughout the world,

Considering that the use of force by a State to encroach upon the social and political achievements of the peoples of other States is incompatible with the principle of the peaceful coexistence of States with different social systems,

Recalling also that Article 39 of the Charter states that the Security Council shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security,

Believing that, although the question whether an act of aggression has been committed must be considered in the light of all the circumstances in each particular case, it is nevertheless appropriate to formulate basic principles as guidance for such determination,

Convinced that the adoption of a definition of aggression would have a restraining influence on a potential aggressor, would simplify the determination of acts of aggression and the implementation of measures to stop them and would also facilitate the rendering of assistance to the victim of aggression and the protection of his lawful rights and interests,

Considering also that armed aggression is the most serious and dangerous form of aggression, being fraught, in the conditions created by the existence of nuclear weapons, with the threat of a new world conflict with all its catastrophic consequences and that this form of aggression should be defined at the present stage,

Declares that:

1. Armed aggression (direct or indirect) is the use by a State, first, of armed force against another State contrary to the purposes, principles and provisions of the Charter of the United Nations.
2. In accordance with and without prejudice to the functions and powers of the Security Council:
 - A. Declaration of war by one State, first, against another State shall be considered an act of armed aggression;
 - B. Any of the following acts, if committed by a State first, even without a declaration of war, shall be considered an act of armed aggression:
 - (a) The use of nuclear, bacteriological or chemical weapons or any other weapons of mass destruction;
 - (b) Bombardment of or firing at the territory and population of another State or an attack on its land, sea or air forces;
 - (c) Invasion or attack by the armed forces of a State against the territory of another State, military occupation or annexation of the territory of another State or part thereof, or the blockade of coasts or ports.
 - C. The use by a State of armed force by sending armed bands, mercenaries, terrorists or saboteurs to the territory of another State and engagement in other forms of subversive activity involving the use of armed force with the aim of promoting an internal upheaval in another State or a reversal of policy in favour of the aggressor shall be considered an act of indirect aggression.
3. In addition to the acts listed above, other acts by States may be deemed to constitute an act of aggression if in each specific instance they are declared to be such by a decision of the Security Council.
4. No territorial gains or special advantages resulting from armed aggression shall be recognized.
5. Armed aggression shall be an international crime against peace entailing the political and material responsibility of States and the criminal responsibility of the persons guilty of this crime.
6. Nothing in the foregoing shall prevent the use of armed force in accordance with the Charter of the United Nations, including its use by dependent peoples in order to exercise their inherent right of self-determination in accordance with General Assembly resolution 1514 (XV).

B. Draft proposal submitted by Colombia, Cyprus, Ecuador, Ghana, Guyana, Haiti, Iran, Madagascar, Mexico, Spain, Uganda, Uruguay and Yugoslavia (A/AC.134/L.16 and Add.1 and 2)

The General Assembly,

Basing itself on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,

Convinced that armed attack (armed aggression) is the most serious and dangerous form of aggression and that it is proper at this stage to proceed to a definition of this form of aggression,

Further convinced that the adoption of a definition of aggression would serve to discourage possible aggressors and would facilitate the determination of acts of aggression,

Bearing in mind also the powers and duties of the Security Council, embodied in Article 39 of the Charter of the United Nations, to determine the existence of any threat to the peace, breach of the peace, or act of aggression, and to decide the measures to be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security,

Considering that, although the question whether aggression has occurred must be determined in the circumstances of each particular case, it is nevertheless appropriate to facilitate that task by formulating certain principles for such determination,

Reaffirming further the duty of States under the Charter of the United Nations to settle their international disputes by pacific methods in order not to endanger international peace, security and justice,

Convinced that no considerations of whatever nature, save as stipulated in operative paragraph 3 hereof, may provide an excuse for the use of force by one State against another State,

Declares that:

1. In the performance of its function to maintain international peace and security, the United Nations only has competence to use force in conformity with the Charter;

2. For the purpose of this definition, aggression is the use of armed force by a State against another State, including its territorial waters or air space, or in any way affecting the territorial integrity, sovereignty or political independence of such State, save under the provisions of paragraph 3 hereof or when undertaken by or under the authority of the Security Council;

3. The inherent right of individual or collective self-defence of a State can be exercised only in case of the occurrence of armed attack (armed aggression) by another State in accordance with Article 51 of the Charter;

4. Enforcement action or any use of armed force by regional arrangements or agencies may only be resorted to if there is decision to that effect by the Security Council acting under Article 53 of the Charter;

5. In accordance with the foregoing and without prejudice to the powers and duties of the Security Council, as provided in the Charter, any of the following acts when committed by a State first against another State in violation of the Charter shall constitute acts of aggression:

(a) Declaration of war by one State against another State;

(b) The invasion or attack by the armed forces of a State, against the territories of another State, or any military occupation, however temporary, or any forcible annexation of the territory of another State or part thereof;

(c) Bombardment by the armed forces of a State against the territory of another State, or the use of any weapons, particularly weapons of mass destruction, by a State against the territory of another State;

(d) The blockade of the coasts or ports of a State by the armed forces of another State;

6. Nothing in paragraph 3 above shall be construed as entitling the State exercising a right of individual or collective self-defence, in accordance with Article 51 of the Charter, to take any measures not reasonably proportionate to the armed attack against it;

7. When a State is a victim in its own territory of subversive and/or terrorist acts by irregular, volunteer or armed bands organized or supported by another State, it may take all reasonable and adequate steps to safeguard its existence and its institutions, without having recourse to the right of individual or collective self-defence against the other State under Article 51 of the Charter;

8. The territory of a State is inviolable and may not be the object, even temporarily, of military occupation or of other measures of force taken by another State on any grounds whatever, and that such territorial acquisitions obtained by force shall not be recognized;

9. Armed aggression, as defined herein, and the acts enumerated above, shall constitute crimes against international peace, giving rise to international responsibility;

10. None of the preceding paragraphs may be interpreted as limiting the scope of the Charter's provisions concerning the right of peoples to self-determination, sovereignty and territorial integrity.

C. Draft proposal submitted by Australia, Canada, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/AC.134/L.17 and Add.1 and 2)

The General Assembly,

Conscious that a primary purpose of the United Nations is to maintain international peace and security, and, to that end, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,

Recalling that Article 39 of the Charter of the United Nations provides that the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security,

Reaffirming that all States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

Believing that, although the question of whether an act of aggression has been committed must be considered in the light of all the circumstances of each particular case, a generally accepted definition of aggression may nevertheless provide guidance for such consideration,

Being of the view that such a definition of aggression may accordingly facilitate the processes of the United Nations and encourage States to fulfil in good faith their obligations under the Charter of the United Nations,

Adopts the following definition:

I. Under the Charter of the United Nations, "aggression" is a term to be applied by the Security Council when appropriate in the exercise of its primary responsibility for the maintenance of international peace and security under Article 24 and its functions under Article 39.

II. The term "aggression" is applicable, without prejudice to a finding of threat to the peace or breach of the peace, to the use of force in international relations, overt or covert, direct or indirect, by a State against the territorial integrity or political independence of any other State, or in any other manner inconsistent with the purposes of the United Nations. Any act which would constitute aggression by or against a State likewise constitutes aggression when committed by a State or other political entity delimited by international boundaries or internationally agreed lines of demarcation against any State or other political entity so delimited and not subject to its authority.

III. The use of force in the exercise of the inherent right of individual or collective self-defence, or pursuant to decisions of or authorization by competent United Nations organs or regional organizations consistent with the Charter of the United Nations, does not constitute aggression.

IV. The uses of force which may constitute aggression include, but are not necessarily limited to, a use of force by a State as described in paragraph II.

A. In order to:

- (1) Diminish the territory or alter the boundaries of another State;
- (2) Alter internationally agreed lines of demarcation;
- (3) Disrupt or interfere with the conduct of the affairs of another State;
- (4) Secure changes in the Government of another State; or
- (5) Inflict harm or obtain concessions of any sort;

B. By such means as:

(1) Invasion by its armed forces of territory under the jurisdiction of another State;

(2) Use of its armed forces in another State in violation of the fundamental conditions of permission for their presence, or maintaining them there beyond the termination of permission;

(3) Bombardment by its armed forces of territory under the jurisdiction of another State;

(4) Inflicting physical destruction on another State through the use of other forms of armed force;

(5) Carrying out deliberate attacks on the armed forces, ships or aircraft of another State;

(6) Organizing, supporting or directing armed bands or irregular or volunteer forces that make incursions or infiltrate into another State;

(7) Organizing, supporting or directing violent civil strife or acts of terrorism in another State; or

(8) Organizing, supporting or directing subversive activities aimed at the violent overthrow of the Government of another State.

ANNEX II

Report of the Working Group

1. The Working Group, established in accordance with the decision taken by the Special Committee at its 103rd meeting on 30 April 1973, held 14 meetings, between 2 and 25 May 1973, under the chairmanship of the representative of Finland, Mr. Bengt H. G. A. Broms.
2. At its 1st meeting, on 2 May, the Working Group decided to begin its work with the first reading of the report of the informal negotiating group, reproduced in annex II, appendix A, of the report of the Special Committee on its 1972 session. a/ It also decided to examine the various aspects of the definition of aggression in the following order: general definition of aggression and acts proposed for inclusion; indirect use of force and clause on minor incidents; legal uses of force, including the question of centralization, questions of priority and aggressive intent; the right of peoples to self-determination; legal consequences of aggression. It was understood that the following items would also be examined: use of the territory of a State as basis for attack against another State, attribution of the United Nations organs, and the principle of proportionality.
3. At its 2nd meeting, held on the same day, the Working Group decided to establish a first contact group, to which it referred for consideration the text of the general definition of aggression, in particular the terms "sovereignty" and "territorial integrity" contained therein. The group was composed as follows: Colombia, France, Ghana, Romania, Syrian Arab Republic, Turkey, Union of Soviet Socialist Republics and United States of America. It was placed under the chairmanship of the Chairman of the Working Group. The group held four meetings.
4. After completing its first reading of the report of the informal negotiating group of the last session, the Working Group decided at its 7th meeting, on 8 May, to establish two other contact groups - the second and third groups - which were also placed under the chairmanship of the Chairman of the Working Group. The second contact group was instructed to examine the following points: acts proposed for inclusion, indirect use of force, clause on minor incidents and the right of peoples to self-determination. It was composed as follows: Bulgaria, Cyprus, France, Ghana, Romania, Syrian Arab Republic, Union of Soviet Socialist Republics, and two member States designated among the sponsors of the six-Power draft. The third contact group was instructed to consider the questions of priority and aggressive intent. It was composed as follows: Czechoslovakia, Egypt, France, Guyana, Mexico, Spain (later replaced by Ecuador), Turkey, Union of Soviet Socialist Republics and two member States designated among the sponsors of the six-Power draft. The second group held 11 meetings and the third group held eight meetings.
5. At its 8th meeting, on 15 May, the Working Group decided to establish a fourth contact group, which was instructed to consider the legal uses of force and the

a/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 19 (A/8719).

legal consequences of aggression. This group, which was also placed under the chairmanship of the Chairman of the Working Group, was composed as follows: Czechoslovakia, France, Indonesia, Iraq, Romania, Spain, Turkey, Uganda, Union of Soviet Socialist Republics and two member States designated among the sponsors of the six-Power draft. The group held four meetings.

6. At its 11th meeting, on 23 May, the Working Group decided to establish a drafting group which was instructed to prepare a draft preamble and to consider other questions of a drafting character. This group, which was also under the chairmanship of the Chairman of the Working Group, was composed as follows: Canada, Egypt, France, Ghana, Iran, Spain, Union of Soviet Socialist Republics and United States of America. The group held two meetings.

7. At its 12th meeting, on 24 May 1973, the Working Group had before it a working paper presented by the Chairman of the Working Group. At its 13th meeting, on 25 May, the Working Group had before it the present report which reproduces, in appendix A, a consolidated text of the reports of the contact groups and of the drafting group. At its 14th meeting on the same day, the Working Group decided to take note of this report. It also decided that proposals submitted to it by delegations would be reproduced in appendix B to the present report.

APPENDIX A

Consolidated text of the reports of the contact groups and of the drafting group

Preambular paragraphs

Basing itself on the fact that one of the fundamental purposes of the United Nations is to maintain international peace and security and to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,

Recalling that Article 39 of the Charter states that the Security Council shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security,

Recalling also the duty of States under the Charter of the United Nations to settle their international disputes by peaceful means in order not to endanger international peace, security and justice,

Bearing in mind that nothing in this definition shall be interpreted as in any way extending or diminishing the provisions of the United Nations Charter with respect to rights and duties of the organs of the United Nations,

Considering also that since aggression is the most serious and dangerous form of the illegal use of force, being fraught, in the conditions created by the existence of all types of weapons of mass destruction, with the possible threat of a world conflict with all its catastrophic consequences, aggression should be defined at the present stage,

Reaffirming the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence,

Reaffirming also that the territory of a State shall not be violated by being the object, even temporarily, of military occupation or of other measures of force taken by another State in contravention of the Charter,

Convinced that the adoption of a definition of aggression would have a restraining influence on a potential aggressor, would simplify the determination of acts of aggression and the implementation of measures to stop them and would also facilitate the protection of the lawful rights and interests of the victim and the rendering of assistance to the victim,

Believing that, although the question whether an act of aggression has been committed must be considered in the light of all the circumstances in each particular case, it is, nevertheless, appropriate to formulate basic principles as guidance for such determination,

General definition of aggression

Article 1

Aggression is the use of armed force /however exerted/ by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this definition.

Explanatory note: In this definition the term "State"

- (a) is used without prejudice to questions of recognition or to whether a State is a Member of the United Nations, and
- (b) includes the concept of a "group of States".

Questions of priority and aggressive intent

Article 2

The first use of armed force in contravention of the Charter shall constitute prima facie evidence of an act of aggression provided, however, that the Security Council may in conformity with the Charter conclude that a determination to that effect would not be justified in the light of other relevant circumstances, including, as evidence, the purposes of the States involved.

Acts proposed for inclusion

Article 3

Any of the following acts, regardless of a declaration of war, shall constitute an act of aggression:

- (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- (c) The blockade of the ports or coasts of a State by the armed forces of another State;
- (d) An attack by the armed forces of a State on the land, sea or air forces, marine and air fleets of another State;
- (e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

- (f) The action of a State placing its territory at the disposal of another State when the latter uses this territory for perpetrating an act of aggression against a third State with the acquiescence and agreement of the former;
- (g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out invasion or attack involving acts of armed force against another State of such gravity as to amount to the acts listed above, or its open and active participation therein.

Provision on the non-exhaustive character of the list
and the clause on minor incidents

Article 4

The acts enumerated above are neither exhaustive nor do they prevent the Security Council from refraining from the determination of an act of aggression if the act concerned is too minimal to justify such action.

Conversely, the Security Council may determine other acts as constituting aggression under the provisions of the Charter.

The right of peoples to self-determination

Article 5

None of the preceding paragraphs may be interpreted as limiting the scope of the Charter's provisions concerning the right of peoples to self-determination or as preventing peoples under military occupation or any form of foreign domination in their actions against and resistance to such alien domination from using force and seeking or receiving support and assistance in order to exercise their inherent right to self-determination in accordance with the principles of the Charter and in conformity 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.

Legal consequences of aggression

Article 6

Aggression constitutes against international peace giving rise to responsibility under international law.

No territorial acquisition or special advantage resulting from aggression is lawful, nor shall it be recognized as such.

Legal uses of force, including the question of centralization

Article 7

Nothing in this definition shall be construed as in any way enlarging or diminishing the scope of the Charter including its provisions concerning cases in which the use of force is lawful.

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* * *

The following wording has been considered, but it has not been decided where it should be inserted:

"No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression."

Comments contained in the reports of the contact groups and of the drafting group

Preambular paragraphs

With regard to the sixth paragraph, two members of the drafting group reserved their position until related provisions of the operative text have been agreed upon. One member reserved his position as to the substance of the paragraph, asking that a reference be made to the principle of territorial integrity.

With regard to the seventh paragraph, one member proposed that the word "armed" be inserted before the word "force". One member approved the addition of the word "armed". One member objected to the words "in contravention of the Charter" at the end of the sentence.

Article on "General definition of aggression"

One member of the relevant contact group proposed that the words "however exerted" be replaced by "in any form" and that the text read "inconsistent with the principles and purposes of the Charter". Another member proposed that the text should read "inconsistent with the principles and provisions of the Charter". One member proposed to delete the words between brackets in view of the inclusion, in the list of acts of aggression, of subparagraph (g).

One member reserved his position as to the term "sovereignty" and as to explanatory note (b).

One member, while accepting the idea behind the words "as set out in this definition", said he would like to see these words redrafted.

It was furthermore felt that it was not necessary to specify that the territory of the State covers its territorial waters and air space, because this is a generally recognized concept in international law.

Article on "Questions of priority and aggressive intent"

There was no general agreement within the relevant contact group as to the text to be adopted.

Whereas many members expressed their willingness to consider this text as one which could be accepted, objections were expressed by some members as to the inclusion of the words "in contravention of the Charter" and the words "including, as evidence, the purposes of the States involved". Some amendments as to the drafting were also presented. One member proposed to replace the words "in contravention of the Charter" in the first line by the words "as set out in this definition".

Notwithstanding intensive negotiations, it was not possible to find at this stage a formula which would have been accepted by consensus.

Acts proposed for inclusion

As to the introductory sentence, it was suggested that this would have to be redrafted to ensure consistency with other provisions.

As to subparagraph (d), one member reserved his position on the words "marine and air fleets".

As to subparagraph (e), it was proposed that the words "beyond the termination of the agreement" be deleted and replaced by the following words: "after the agreement ceases to be in force".

One member reserved his position on the text as a whole.

As to subparagraph (f), one member reserved his position.

As to subparagraph (g), there was no general agreement but the text reproduced above was discussed during the last stages of consultations. It was proposed that the indirect use of force should rather be covered by a separate article than by inclusion as a subparagraph to the list of acts. The words "or its collaboration therein" were strongly opposed when they were first introduced at the end of the text and the objections remained as to the present wording: "or its open and active participation therein".

Other reservations were based on the view that the subparagraph was too narrow and omitted acts which should be covered.

Article on "The right of peoples to self-determination"

There was no general agreement as to the text to be adopted. The text reproduced in the present document was considered in the final stages of consultations.

The following preambular paragraph was proposed in connexion with this paragraph:

"Reaffirming the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence,".

Some members reserved their positions as to the above texts referring either to points of drafting or to the substance.

One member proposed that after the word "self-determination" in the second line the following words be added: ', sovereignty and territorial integrity"'.

Article on "Legal consequences of aggression"

With respect to the first paragraph, five various alternatives were considered as regards the brackets. These alternatives are as follows:

1. "a grave violation"
2. "a crime"
3. "criminal violation"
4. No provision on the legal consequences of aggression at all.
5. To insert, instead of the present text of the paragraph, the text:

'Aggression gives rise to responsibility under international law.'

With respect to the second paragraph, one member of the relevant contact group supported the inclusion of the following text:

"The territory of a State is inviolable and shall not be the object, even temporarily, of military occupation or of other measures of force taken by another State on any grounds whatever and no territorial acquisitions as well as any other special advantages obtained by the use of force shall be recognized.

Another member reserved his position as to the words "special advantage".

It was furthermore proposed by one member that the following paragraph be included in the preamble of the definition of aggression:

"Reaffirming that the territory of a State is inviolable and that it shall not be the object, even temporarily, of military occupation or of other measures of force taken by another State in contravention of the Charter,'.

Article on "Legal uses of force, including the question of centralization"

On behalf of the 13-Power group it was announced that the group had not taken a final decision on the question of the legal uses of force.

Additional text

One member reserved his position.

One member proposed the following text:

'No consideration of whatever nature, whether political, economic, military or otherwise, relating to the internal or foreign policy of a State, may serve as a justification for aggression as herein defined.

APPENDIX B

Proposals submitted to the Working Group

A. Ecuador

Questions of priority and aggressive intent

Delete the words "including, as evidence, the purposes of the States involved".

Acts proposed for inclusion

In subparagraph (d) delete the words 'marine and air fleets'.

Legal consequences of aggression

Replace the second paragraph by the following:

"No territorial acquisition or other special advantage obtained by the use of force shall be recognized."

B. Indonesia

Acts proposed for inclusion

1. Subparagraph (d) should read as the original relevant text appearing in the report of the informal negotiating group annexed to the 1972 report of the Special Committee:

"(d) An attack by the armed forces of a State on the land, sea or air forces of another State."

2. The last line of subparagraph (g) should read as follows:

"... to the acts listed above, or its support or its open and active participation therein."

C. United States of America

The following texts are proposed for inclusion in the definition:

Acts proposed for inclusion

The provisions of article _____ (article on priority and purpose) shall apply to any of the following uses of armed force, regardless of a declaration of war:

...

Indirect uses of force

The organization by a State, or encouragement of the organization of, or assistance to, irregular forces or armed bands or other groups, volunteers, or mercenaries, which participate in incursions into another State's territory or in the carrying out of acts involving the use of force in or against another State, or knowing acquiescence in organized activities within its own territory directed toward and resulting in the commission of such acts.

D. Algeria

Questions of priority and aggressive intent

Delete the words "in contravention of the Charter" and the words "including, as evidence, the purposes of the States involved".

The right of peoples to self-determination

After the words "None of the preceding paragraphs" add the words "and particularly article 3, subparagraph (g)".

E. Egypt

Seventh paragraph of the preamble

Delete the words "in contravention of the Charter".

Questions of priority and aggressive intent

Replace the text of article 2 by the following:

"The first use of armed force in contravention of the Charter shall constitute prima facie evidence of an aggression. The Security Council may, however, in conformity with the Charter, conclude that a determination to that effect would not be justified."

Legal consequences of aggression

In the text of article 6, replace the words "resulting from aggression" by the words "resulting from the threat or use of force".

F. Guyana

Questions of priority and aggressive intent

Add the following paragraph to the text of the proposed article:

"However, no consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression."

Acts proposed for inclusion

In the first line of subparagraph (g), after the word "sending", insert the words "organizing or supporting".

The right of peoples to self-determination

Replace the proposed article by the following:

"Nothing in this definition shall be construed so as to impair the inherent rights to self-determination and independence of peoples under colonial régimes and other forms of foreign domination or to invalidate the legitimacy of their struggle, in particular, the just struggle of national liberation movements in accordance with the purposes and principles of the United Nations 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."

G. Italy

Preamble

1. The Italian delegation reserves its position on the sixth paragraph.
2. The French version of the seventh paragraph of the preamble should be brought into line with the English version.
3. In the English version of the eighth paragraph, the words "lawful rights and interests" should be replaced by "rights and lawful interests".

Questions of priority and aggressive intent

In the French text, replace the words "constitue la preuve suffisante à première vue" by the words "constitue la preuve prima facie".

Acts proposed for inclusion

1. Amend the introductory paragraph to read as follows:

"Without prejudice to article 2 (Questions of priority and aggressive intent), any of the following acts, whether or not there has been a declaration of war, shall constitute prima facie evidence of an act of aggression:"

2. Amend subparagraph (f) to read as follows:

"The action of a State in placing its territory at the disposal of another State for perpetrating an act of aggression against a third State;"

In any case, the Italian delegation reserves its position with respect to the phrase "with the acquiescence and agreement of the former", contained in subparagraph (f).

Provision on the non-exhaustive character of the list
and the clause on minor incidents

1. Delete the second paragraph.
2. Amend the first paragraph to read as follows:

"The above list of acts is not exhaustive nor shall it prevent the Security Council from refraining from determining an act as an act of aggression if the behaviour concerned is too insignificant to justify such a determination."

Legal consequences of aggression

Amend the first paragraph to read as follows:

"Aggression constitutes () peace giving rise to international responsibility."

Order of presentation of articles

The Italian delegation proposes the following order:

Article 1.	General definition of aggression
Article 2:	Questions of priority and aggressive intent
Article 3, first paragraph:	Acts proposed for inclusion
second paragraph:	Provision on the non-exhaustive character of the list and the clause on minor incidents
Article 4:	Legal consequences of aggression
Article 5, first paragraph:	Legal uses of force
second paragraph:	The right of peoples to self-determination.

H. Mexico

Questions of priority and aggressive intent

Replace the text of article 2 by the following:

"The first use of armed force in contravention of the United Nations Charter shall constitute prima facie evidence of an act of aggression. This principle, however, does not in any way limit or detract from the powers of the Security Council, in accordance with the Charter, to examine all relevant circumstances, including, inter alia, factually supported purposes with a view to restoring peace and security."

I. Romania

Preambular part

The Romanian delegation reserves the right to express its opinion on the whole text of the preambular part at the next session.

Acts proposed for inclusion

The Romanian delegation proposes that a provision on the prohibition of the weapons of mass destruction should be included in the operative part of the definition.

J. Uruguay

General definition of aggression

The definition might be worded as follows:

"Internationally, aggression is the use of armed force by a State against another State in a manner inconsistent with the terms of the Charter of the United Nations."

Acts proposed for inclusion

The article might be worded as follows:

"Regardless of a declaration of war, acts which injure the sovereignty, political independence or territorial integrity of a State, including its territorial waters and air space, shall constitute acts of aggression, for example:

- (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- (c) The blockade of the ports or coasts of a State by the armed forces of another State;
- (d) An attack by the armed forces of a State on the land, sea or air forces of another State;
- (e) The use of armed forces of one State which are within the territory of another State with the consent of the latter, in contravention of the conditions or the period of time for which such consent was given;

- (f) The sending, organization or support by a State of armed bands, groups of irregulars or mercenaries which invade the territory of another State."

Circumstances which help to determine the existence or seriousness of aggression and of consequent responsibility

I. The term "State", which is used, does not imply the expression of any opinion concerning matters relating to its recognition or to the question whether or not it possesses the status of a Member of the United Nations.

II. The concept of a State as an active or passive agent of aggression includes that of a "group of States".

III. To determine the existence and seriousness of aggression and of the consequent responsibility, account can be taken of circumstances that make it possible to establish unequivocally which State acted first in time, and whether the aggression was committed with one of the following motives:

- (a) To diminish the territory or alter the boundaries of another State;
- (b) To alter internationally agreed lines of demarcation;
- (c) To disrupt or interfere with the conduct of the affairs of another State;
- (d) To secure changes in another State;
- (e) To inflict harm, or obtain concessions of any sort;
- (f) To violate in any other manner the territorial integrity or the political independence of another State.

IV. In cases of minor significance, the Security Council may, without expressing an opinion on the existence of acts of aggression, urge the parties to settle the conflict by the means provided for in the Charter (Article 33 of the Charter).

Legal uses of armed force

The article might be worded as follows:

"Apart from the use of armed force ordered by the Security Council for the maintenance or restoration of international peace and security (Article 42 of the Charter) and the use made for the same purposes under regional arrangements or agencies with the authorization of the Security Council (Articles 52 and 53 of the Charter), the use of armed force by States shall be legal only in exercise of the right of individual or collective self-defence in case of armed attack (Article 51 of the Charter)."

Legal consequences of aggression

The article may be worded as follows:

"Aggression, being an offence against international peace and security, shall not create rights or advantages that can be recognized and shall give rise to responsibility under international law."

Additional provision

Interpretation of provisions defining aggression

"Nothing contained in the terms of the preceding norms of definition shall enlarge or diminish the scope of the Charter's provisions relating to:

(A) The functions and powers of the Security Council laid down in Article 39 of the Charter, in determining the existence of any threat to the peace, breach of the peace, or act of aggression, or in deciding what measures are to be taken in accordance with Articles 41 and 42 of the Charter to maintain or restore international peace and security;

(B) The right of peoples to self-determination, sovereignty and territorial integrity;

(C) The use of force in exercise of the inherent right of individual or collective self-defence."

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