



UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.134/1
24 March 1968
ENGLISH
ORIGINAL: FRENCH

1968 SPECIAL COMMITTEE ON THE QUESTION OF
DEFINING AGGRESSION (ESTABLISHED UNDER
GENERAL ASSEMBLY RESOLUTION 2330 (XXII))

SURVEY OF PREVIOUS UNITED NATIONS ACTION ON THE
QUESTION OF DEFINING AGGRESSION

Memorandum prepared by the Secretariat

1. In order to facilitate the work of the Special Committee as much as possible, the Secretariat has prepared this memorandum, which contains a brief survey of the action taken on the question of defining aggression since 1950, when this question came before the General Assembly for the first time. The memorandum indicates the principal documents issued on the subject within the United Nations system, which contain information that might be of assistance to the Special Committee in the performance of its task under General Assembly resolution 2330 (XXII).^{1/}
2. Since 1950, the General Assembly has adopted a number of resolutions concerning the question of defining aggression. In these resolutions, the Assembly expressed its views on some aspects of the question. In addition, it successively:
(1) referred the question to the International Law Commission; (2) instructed the Secretary-General to prepare a report in which the question should be thoroughly discussed; (3) established both the 1953 and the 1956 Special Committees; (4) suspended consideration of the substance of the question; (5) decided to resume such consideration and to establish the 1968 Special Committee.

^{1/} A list of the principal United Nations documents dealing with the question of defining aggression and other United Nations documents containing information which has a bearing on the question appears in the annex to this memorandum.

I

Reference of the question of defining aggression to the
International Law Commission (resolution 378 B (V) of
17 November 1950)

3. At the 385th meeting of the First Committee, on 6 November 1950, at which the item "Duties of States in the event of the outbreak of hostilities" was discussed, the representative of the Union of Soviet Socialist Republics submitted a draft resolution^{2/} containing a definition of aggression. In its resolution 378 B (V) of 17 November 1950, adopted on the recommendation of the First Committee,^{3/} the General Assembly decided to refer the proposal of the Union of Soviet Socialist Republics concerning the definition of aggression and all the records^{4/} of the First Committee dealing with that question to the International Law Commission, so that the latter might take them into consideration and formulate its conclusions as soon as possible.

4. The International Law Commission considered the question of defining aggression at its third session in 1951 and devoted chapter III of its report on the work of that session^{5/} to the question. The Commission did not furnish an express definition of aggression but merely included aggression among the offences defined in its draft Code of Offences against the Peace and Security of Mankind.

II

Preparation by the Secretary-General of a report in which
the question of defining aggression was thoroughly discussed
(resolution 599 (VI) of 31 January 1952)

5. At its 341st plenary meeting, on 13 November 1951, the General Assembly decided to include the report of the International Law Commission in the agenda of its sixth session. At its 342nd plenary meeting, on the same date, the Assembly referred the item to the Sixth Committee for study and report.

^{2/} Official Records of the General Assembly, Fifth Session, Annexes, agenda item 72, document A/C.1/608/Rev.1.

^{3/} For the report of the First Committee, see ibid., document A/1500.

^{4/} Ibid., Fifth Session, First Committee, 384th to 390th meetings.

^{5/} Yearbook of the International Law Commission, 1951, vol. II, document A/1858, p. 123.

6. The Sixth Committee considered the question of defining aggression at its 278th to 295th meetings, from 5 to 22 January 1952.^{6/} At its 368th plenary meeting, on 31 January 1952, the General Assembly adopted resolution 599 (VI), reading as follows:

"The General Assembly,

"Considering that, under resolution 378 B (V) of 17 November 1950, it referred the question of defining aggression, raised in the draft resolution of the Union of Soviet Socialist Republics to the International Law Commission for examination in conjunction with matters which were under consideration by that Commission,

"Considering that the International Law Commission did not in its report furnish an express definition of aggression but merely included aggression among the offences defined in its draft Code of Offences against the Peace and Security of Mankind,

"Considering that the General Assembly, on 13 November 1951, decided not to examine the draft Code at its sixth session but to include it in the provisional agenda of its seventh session,

"Considering that, although the existence of the crime of aggression may be inferred from the circumstances peculiar to each particular case, it is nevertheless possible and desirable, with a view to ensuring international peace and security and to developing international criminal law, to define aggression by reference to the elements which constitute it,

"Considering further that it would be of definite advantage if directives were formulated for the future guidance of such international bodies as may be called upon to determine the aggressor,

"1. Decides to include in the agenda of its seventh session the question of defining aggression;

"2. Instructs the Secretary-General to submit to the General Assembly at its seventh session a report in which the question of defining aggression shall be thoroughly discussed in the light of the views expressed in the Sixth Committee at the sixth session of the General Assembly and which shall duly take into account the draft resolutions and amendments submitted concerning this question;

"3. Requests States Members, when transmitting their observations on the draft Code to the Secretary-General, to give in particular their views on the problem of defining aggression."

^{6/} For the report of the Sixth Committee, see Official Records of the General Assembly, Sixth Session, Annexes, agenda item 49, document A/2087.

7. In accordance with operative paragraph 2 of this resolution, the Secretary-General submitted to the General Assembly at its seventh session a report^{7/} in which the question of defining aggression was thoroughly discussed. The first part of that report, which was historical and factual, reviewed the problem of defining aggression as it had confronted the League of Nations system and the United Nations system. The second part of the report dealt with the general question of defining aggression and reviewed the various related theories and agreements.

8. In accordance with operative paragraph 3 of the above-mentioned resolution 599 (VI), a number of Member States^{8/} forwarded their observations on the draft Code of Offences against the Peace and Security of Mankind and on the question of defining aggression.

III

Establishment of the 1953 Special Committee on the Question of Defining Aggression (resolution 688 (VII) of 20 December 1952)

9. At its 380th plenary meeting, on 16 October 1952, the General Assembly decided to include in the agenda of its seventh session the following item: "Question of defining aggression: report of the Secretary-General". At its 382nd plenary meeting, on 17 October, the Assembly referred this question to the Sixth Committee, which considered it at its 329th to 347th meetings, from 19 November to 11 December 1952.^{9/} At its 408th meeting, on 20 December 1952, the General Assembly adopted resolution 688 (VII), reading as follows:

"The General Assembly,

"Having regard to its resolution 599 (VI) of 31 January 1952,

"Considering that the discussion of the question of defining aggression at the sixth and seventh sessions of the General Assembly and in the

7/ Ibid., Seventh Session, Annexes, agenda item 54, document A/2211.

8/ Bolivia, Chile, Costa Rica, Denmark, Egypt, France, India, Indonesia, Iraq, Netherlands, Nicaragua, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia (ibid., document A/2162 and Add.1).

9/ For the report of the Sixth Committee, see ibid., document A/2322.

International Law Commission has revealed the complexity of this question and the need for a detailed study of:

- (a) The various forms of aggression,
- (b) The connexion between a definition of aggression and the maintenance of international peace and security,
- (c) The problems raised by the inclusion of a definition of aggression in the Code of Offences against the Peace and Security of Mankind and by its application within the framework of international criminal jurisdiction,
- (d) The effect of a definition of aggression on the exercise of the jurisdiction of the various organs of the United Nations,
- (e) Any other problem which might be raised by a definition of aggression,

"Considering that continued and joint efforts shall be made to formulate a generally acceptable definition of aggression, with a view to promoting international peace and security and to developing international law,

"1. Decides to establish a Special Committee of fifteen members, each representing one of the following Member States: Bolivia, Brazil, China, Dominican Republic, France, Iran, Mexico, Netherlands, Norway, Pakistan, Poland, Syria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, to meet at the Headquarters of the United Nations in 1953;

"2. Requests the said Special Committee:

- (a) To submit to the General Assembly at its ninth session draft definitions of aggression or draft statements of the notion of aggression;
- (b) To study all the problems referred to above on the assumption of a definition being adopted by a resolution of the General Assembly;

"3. Requests the Secretary-General to communicate the Special Committee's report to Member States for their comments and to place the question on the provisional agenda of the ninth session of the General Assembly."

10. The Special Committee on the Question of Defining Aggression, established under this resolution, met at United Nations Headquarters, New York, from 24 August to 21 September 1953. It had before it a memorandum^{10/} prepared by the Secretariat,

^{10/} Document A/AC.66/1.

entitled, "Some aspects of the definition of aggression"; this memorandum analysed, in respect of each of the points raised in the above resolution, the views which had been expressed at the seventh session of the General Assembly on the question of defining aggression and the observations of Governments on the draft Code of Offences against the Peace and Security of Mankind and on the question of defining aggression. The Committee prepared a report^{11/} in which it considered the following questions: (a) the various types of definitions of aggression; (b) the various forms of aggression; (c) the connexion between a definition of aggression and the maintenance of international peace and security; (d) the problems raised by the inclusion of a definition of aggression in the code of offences against the peace and security of mankind and by its application within the framework of international criminal jurisdiction; (e) the effect of a definition of aggression on the exercise of the jurisdiction of the various organs of the United Nations. A number of draft definitions of aggression were submitted to the Committee, which decided unanimously not to put the texts to the vote but to transmit them as they stood to Member States and the General Assembly. The texts were therefore annexed to the Committee's report, which the Secretary-General submitted to Member States for comment in accordance with General Assembly resolution 688 (VII).^{12/}

IV

Establishment of the 1956 Special Committee on the Question of Defining Aggression (resolution 895 (IX) of 4 December 1954)

11. At its 477th plenary meeting, on 24 September 1954, the General Assembly decided to include the following item in the agenda of its ninth session:

"Question of Defining Aggression: report of the Special Committee on the Question of Defining Aggression". At its 478th plenary meeting, on 25 September, the Assembly referred the item to the Sixth Committee, which considered it at its

^{11/} Official Records of the General Assembly, Ninth Session, Supplement No. 11 (A/2638).

^{12/} The following States submitted their comments: Argentina, Byelorussian Soviet Socialist Republic, Denmark, France, Greece, India, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland (ibid., Ninth Session, Annexes, agenda item 51, document A/2689 and Add.1).

403rd and 420th meetings, on 14 October and 10 November 1954.^{13/} At its 504th plenary meeting, on 4 December 1954, the General Assembly adopted resolution 895 (IX), reading as follows:

"The General Assembly,

"Recalling its resolutions 599 (VI) of 31 January 1952 and 688 (VII) of 20 December 1952,

"Considering that the discussions to which the question of defining aggression gave rise at the ninth session of the General Assembly have revealed the need to co-ordinate the views expressed by the States Members,

"1. Decides to establish a Special Committee comprising one representative of each of the following States Members: China, Czechoslovakia, Dominican Republic, France, Iraq, Israel, Mexico, Netherlands, Norway, Panama, Paraguay, Peru, Philippines, Poland, Syria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia, which will meet at United Nations Headquarters in 1956;

"2. Requests the Special Committee to submit to the General Assembly at its eleventh session a detailed report followed by a draft definition of aggression, having regard to the ideas expressed at the ninth session of the General Assembly and to the draft resolutions and amendments submitted;

"3. Decides to place the question on the provisional agenda of the eleventh session of the General Assembly."

12. The Special Committee on the Question of Defining Aggression, established under this resolution, met at United Nations Headquarters, New York, from 8 October to 9 November 1956. It prepared a report^{14/} containing an account of the views expressed in the Special Committee, an account of the ideas expressed at the ninth session of the General Assembly and, as annexes, a selection of definitions and draft definitions of aggression as well as the draft definitions submitted to the Committee itself. The Committee decided not to put the draft definitions to the vote but to transmit them as they stood to the General Assembly.

^{13/} For the report of the Sixth Committee, see ibid., document A/2806.

^{14/} Ibid., Twelfth Session, Supplement No. 16 (A/3574).

V

Suspension of consideration of the substance of the question of defining aggression (resolution 1181 (XII) of 29 November 1957)

13. At its 682nd plenary meeting, on 20 September 1957, the General Assembly included in the agenda of its twelfth session the following item: "Question of defining aggression: report of the Special Committee" and referred it to the Sixth Committee, which considered it at its 514th to 528th meetings from 7 October to 4 November 1957, and at its 530th to 538th meetings from 6 to 21 November 1957.^{15/} At its 724th plenary meeting, on 29 November 1957, the General Assembly adopted resolution 1181 (XII) reading as follows:

"The General Assembly,

"Recalling its resolutions 599 (VI) of 31 January 1952, 688 (VII) of 20 December 1952 and 895 (IX) of 4 December 1954, all referring to a definition of aggression,

"Considering that, in spite of the progress made in the study of the question, the discussion at the present session shows the need for the elucidation of other aspects of a definition of aggression,

"Considering that the report presented by the 1956 Special Committee on the Question of Defining Aggression is an important study based on the views expressed by States Members of the United Nations up to the date of the preparation of the report,

"Considering that twenty-two additional States have recently joined the Organization and that it would be useful to know their views on the matter,

"Resolves:

"1. To take note of the report of the 1956 Special Committee on the Question of Defining Aggression and to express appreciation for the valuable work done;

"2. To ask the Secretary-General to request the views of the new Member States on the question, and to renew the request to Member States to submit comments as provided in General Assembly resolution 688 (VII) of 20 December 1952, furnishing them with the documentation produced after the adoption of that resolution;

^{15/} For the report of the Sixth Committee, see ibid., Twelfth Session, Annexes, agenda item 54, document A/3756.

"3. To ask the Secretary-General to refer the replies of Member States to a committee composed of the Member States whose representatives have served on the General Committee at the most recent regular session of the General Assembly, which committee shall study the replies for the purpose of determining when it shall be appropriate for the General Assembly to consider again the question of defining aggression, and shall report to the Secretary-General when it has determined that the time is appropriate, setting forth the considerations which led to its decision;

"4. To request the Secretary-General to place the question of defining aggression on the provisional agenda of the General Assembly, not earlier than at its fourteenth session, when the committee has advised him that it considers the time appropriate;

"5. To request the Secretary-General to convene the first meeting of the committee prior to the fourteenth session of the General Assembly."

14. The Committee established under this resolution held three sessions, the first in April 1959,^{16/} the second in April 1962^{17/} and the third in April 1965.^{18/} At the end of each of those sessions, it decided to adjourn its proceedings and to reconvene at a later date for the purpose of again considering the question referred to it. At its 1965 session, it decided to reconvene in April 1967 with a view to considering the possibility of recommending the General Assembly to resume consideration of the question of defining aggression, unless a majority of the members of the Committee, who were to be consulted in writing by the Secretary-General in January 1966, deemed it desirable that the Committee should meet in April 1966 and requested the Secretary-General to convene it at that time. As a majority of the Committee's members did not request that it should meet in April 1966, it held its fourth session in April 1967. From 3 April to 26 May 1967, the Committee held seven meetings, at which it took no decision concerning the question referred to it.

15. It should be noted that, in accordance with operative paragraph 2^{19/} of the above-mentioned resolution 1181 (XII) and pursuant to two successive decisions of

^{16/} Report of the Committee, document A/AC.91/2.

^{17/} Report of the Committee, document A/AC.91/3.

^{18/} Report of the Committee, document A/AC.91/5.

^{19/} In reply to a circular letter dated 19 March 1958 addressed to Member States by the Secretary-General in accordance with operative paragraph 2 of resolution 1181 (XII), the following States forwarded their comments: Afghanistan, Brazil, Bulgaria, Cambodia, Ceylon, Denmark, France, India, Indonesia, Japan, New Zealand, Norway, Poland, Sweden (document A/AC.91/1).

the Committee^{20/} established under that resolution, a number of Member States forwarded comments on the substance of the question of defining aggression.

VI

Resumption of consideration of the question of defining aggression, and establishment of the 1968 Special Committee (resolution 2330 (XXII) of 18 December 1967)

16. At its 1572nd plenary meeting, on 28 September 1967, the General Assembly decided to include in the agenda of its twenty-second session the following item proposed by the Union of Soviet Socialist Republics (A/6833 and Corr.1 (English and Spanish only)): "Need to expedite the drafting of a definition of aggression in the light of the present international situation". It also decided that the item should be allocated to the plenary Assembly and, in the light of the debate and the results achieved, should be examined by the Sixth Committee.

17. The General Assembly considered the item at its 1611th to 1618th meetings from 28 November to 4 December 1967. Following the discussion in plenary meetings, the item was referred to the Sixth Committee, which considered it at its 1017th to 1023rd meetings and at its 1025th meeting, from 7 to 14 December 1967.^{21/}

^{20/} At its second session, in 1962, the Committee decided (A/AC.91/3, resolution) to ask the Secretary-General to request States admitted to the United Nations since the first session of the Committee in 1959 to submit their views on the question of defining aggression in conformity with operative paragraph 2 of resolution 1181 (XII), and to renew the request to the other Member States to submit their views on the subject. At its third session, in 1965, the Committee likewise decided (A/AC.91/5, resolution) to ask the Secretary-General to request States admitted to the United Nations since the session of the Committee in 1962 to submit their views on the question in conformity with operative paragraph 2 of resolution 1181 (XII). In reply to two circular letters, dated 30 December 1964 and 4 May 1965, addressed to Member States by the Secretary-General in accordance with these two resolutions of the Committee, the following States forwarded their comments: Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cambodia, Congo (Democratic Republic of), Dahomey, Ecuador, Japan, Mexico, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland (documents A/AC.91/4 and Add.1-5 and A/AC.91/7).

^{21/} For the report of the Sixth Committee, see Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 95, document A/6988.

18. At its 1638th plenary meeting, on 18 December 1967, the General Assembly adopted resolution 2330 (XXII), reading as follows:

"The General Assembly,

"Considering that in conformity with the Charter of the United Nations all Members of the United Nations must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

"Considering that one of the main purposes 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,

"Convinced that a primary problem confronting the United Nations in the maintenance of international peace remains the strengthening of the will of States to respect all obligations under the Charter,

"Considering that there is a widespread conviction that a definition of aggression would have considerable importance for the maintenance of international peace and for the adoption of effective measures under the Charter for preventing acts of aggression,

"Noting that there is still no generally recognized definition of aggression,

"1. Recognizes that there is a widespread conviction of the need to expedite the definition of aggression;

"2. Establishes a Special Committee on the Question of Defining Aggression, composed of thirty-five Member States to be appointed by the President of the General Assembly, taking into consideration the principle of equitable geographical representation and the necessity that the principal legal systems of the world should be represented;

"3. Instructs the Special Committee, having regard to the present resolution and the international legal instruments relating to the matter and the relevant precedents, methods, practices and criteria and the debates in the Sixth Committee and in plenary meetings of the Assembly, to consider all aspects of the question so that an adequate definition of aggression may be prepared and to submit to the General Assembly at its twenty-third session a report which will reflect all the views expressed and the proposals made;

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

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

19. In accordance with operative paragraph 2 of this resolution, the President of the General Assembly decided, after appropriate consultations, to appoint the following thirty-five Member States to serve on the Special Committee: Algeria, Australia, Bulgaria, Canada, Colombia, Congo (Democratic Republic of), Cyprus, Czechoslovakia, Ecuador, Finland, France, Ghana, Guyana, Haiti, Indonesia, Iran, Italy, Japan, Jordan, Madagascar, Mexico, Norway, Romania, Sierra Leone, Spain, Sudan, Syria, Turkey, Uganda, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yugoslavia.

Annex

UNITED NATIONS DOCUMENTS WHICH HAVE A BEARING ON
THE QUESTION OF DEFINING AGGRESSION

The following is a list of the principal United Nations documents dealing with the question of defining aggression to which reference is made in this memorandum and other United Nations documents or publications containing information which has a bearing on the question.

I. Documents dealing with the question of defining aggression

- (1) Report of the International Law Commission on the work of its third session (Yearbook, 1951, vol. II, document A/1858, p. 123).
- (2) Report of the Sixth Committee (Official Records of the General Assembly, Sixth Session, Annexes, agenda item 49, document A/2087).
- (3) Report of the Secretary-General in which the question of defining aggression is thoroughly discussed (ibid., Seventh Session, Annexes, agenda item 54, document A/2211).
- (4) Observations of Governments on the draft Code of Offences against the Peace and Security of Mankind and on the question of defining aggression (ibid., document A/2162 and Add.1).
- (5) Report of the Sixth Committee (ibid., document A/2322).
- (6) Memorandum on some aspects of the definition of aggression (document A/AC.66/1).
- (7) Report of the 1953 Special Committee on the Question of Defining Aggression (Official Records of the General Assembly, Ninth Session, Supplement No. 11 (A/2638)).
- (8) Observations of Governments on the report of the 1953 Special Committee on the Question of Defining Aggression (ibid., Ninth Session, Annexes, agenda item 51, document A/2689 and Add.1).
- (9) Report of the Sixth Committee (ibid., document A/2806).
- (10) Report of the 1956 Special Committee on the Question of Defining Aggression (ibid., Twelfth Session, Supplement No. 16 (A/3574)).

- (11) Report of the Sixth Committee (ibid., Twelfth Session, Annexes, agenda item 54, document A/3756).
- (12) Observations of Governments on the question of defining aggression submitted in accordance with General Assembly resolution 1181 (XII) (documents A/AC.91/1, A/AC.91/4 and Add.1-5 and A/AC.91/7).
- (13) Report of the Sixth Committee (Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 95).

II. Other documents or publications containing information which has a bearing on the question of defining aggression

1. Selected background documentation (prepared by the Secretariat in connexion with the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations) (documents A/C.6/L.537, L.537/Rev.1, L.537/Rev.1/Add.1).
2. Repertory of Practice of United Nations Organs (vol. I (Articles 1-22), vol. II (Articles 23-54), Supplement No. 1, vol. I (Articles 1-54), Supplement No. 2, vol. I (Articles 1-8), Supplement No. 2, vol. II (Articles 9-54).^{22/}
3. Répertoire of the Practice of the Security Council (1946-1951 and Supplements 1952-1955, 1956-1958, 1959-1963).

^{22/} These volumes contain analytical summaries of the practice followed in the application of the relevant Articles of the Charter, particularly Article 2 (4) and Articles 39 and 51.