United Nations

GENERAL ASSEMBLY

SIXTH SESSION

Official Records

SIXTH COMMITTEE, 278th MEETING

Saturday, 5 January 1952, at 11.10 a.m.

Palais de Chaillot, Paris

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Chairman : Mr. Manfred LACHS (Poland).

Reservations to multilateral conventions (*concluded*)

(*a*) Report of the International Law Commission covering the work of its third session (A/1858) (chapter II : Reservations to multilateral conventions);

[Item 49 (*a*)]*

(*b*) Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide : advisory opinion of the International Court of Justice (A/1874)

[Item 50]*

1. Mr. MENDEZ (Philippines) said that at the previous meeting he had not voted as a member of any particular group of States but had endeavoured to vote for the legal solution which he thought best. In voting, he could wish that representatives were guided by conscience and not by their membership in any particular group. He appreciated how greatly the countries of Latin America had striven to give satisfaction to the greatest possible number of States, but he felt that respect for the integrity of treaties was an even more important consideration.

2. In his view, the draft resolution approved (A/C.6/L.205) incorporating parts of the United Kingdom amendment (A/C.6/L.190) and the amendment by Venezuela (A/C.6/L.197/Rev.1) recommending the advisory opinion of the International Court of Justice [1] to all States in regard to the Convention on Genocide, was satisfactory. On the other hand the United States draft resolution (A/C.6/L.188/Rev.1) by-passed the advisory opinion, an attitude which was hardly conducive to international order and discipline.

3. His delegation had therefore voted for the United Kingdom and Venezuelan amendments. However, in the final voting it had had to abstain on the amended United States resolution because the last sub-paragraph of the United Kingdom amendment, endorsing the conclusions of the International Law Commission [2] in the case of future multilateral conventions, had not been incorporated. That part of the amendment not only upheld respect for the integrity of treaties as the hard core of international law, but also constituted an honest effort towards the progressive development of international law. The draft resolution which the Committee had approved opened the door to confusion by leaving it to each State to draw the legal consequences from reservations and objections communicated to it.

4. Mr. ROBINSON (Israel) said that his delegation had voted against the draft resolution approved by the Committee because it had been clear that the draft would be adopted by only a small majority and his delegation had felt that it would be preferable to find a solution acceptable to a greater number of States. He regretted that the Committee's decision had been influenced not by reason but by a small majority. He also regretted that a spirit of conciliation had not prevailed. The document approved was composed of individual parts adopted by different majorities and was not organically unified. The document did not give the Secretary-General any instructions with regard to conventions —other than the Convention on Genocide—concluded under the auspices of the League of Nations or the

* Indicates the item number on the General Assembly agenda.

[1] See *Reservations to the Convention on Genocide, Advisory Opinion : I. C. J. Reports 1951*, page 15 *ff.*

[2] See *Official Records of the General Assembly, Sixth Session, Supplement No. 9*, chapter II.

United Nations and deposited with him. The possible presence of relevant provisions in the text of such conventions was not taken into consideration and no answer was given to the question whether the General Assembly could substitute itself for the contracting parties of future conventions. The rule of the autonomy of the will of individual States implicit in sub-paragraph 3 (*b*) of the draft resolution adopted by the Committee was hardly conducive to the enthronement of the rule of law in international relations. Finally, the report of the International Law Commission was not mentioned in the operative part of the resolution, an omission that was contrary to the precedents established by the fourth and fifth sessions of the General Assembly and showed a lack of appreciation of the Commission, whose work was of the greatest value.

5. Mr. CASTAÑEDA (Mexico) said that his delegation had voted for the draft approved by the Committee because the Committee had refused to give priority to the draft resolution submitted jointly by Denmark, Mexico and a number of other States (A/C.6/L.198). The Mexican delegation had consequently been obliged to vote on the question of substance although it would have preferred that the question should receive further consideration.

6. Mr. ESCUDERO (Ecuador) said that his delegation had voted for all the parts of the amendment submitted by Argentina, Belgium and Egypt (A/C.6/L.202) to the revised United States draft resolution. He regretted that sub-paragraph 2 (*b*) of the operative part of the amendment had not been adopted, since that paragraph was one of the keystones of the Pan-American system. He was nevertheless satisfied. The rule of unanimity had been virtually rejected, since in future the Secretary-General would no longer have to apply the rule inherited from the League of Nations and States alone would draw the legal consequences from the reservations and objections communicated to them.

7. The provision under which clauses relating to the admissibility or non-admissibility of reservations could be inserted in multilateral conventions was a positive result. The adoption of the draft was in itself a step forward and made it legitimate to hope that precise and flexible rules would be established in future, like those observed by the Pan-American States in dealing with reservations.

8. Mr. BARTOS (Yugoslavia) explained that he had voted against the draft resolution approved by the Committee because it introduced elements of uncertainty into international law as to whether a State was in fact a party to a convention to which a reservation had been made. The provision recommending the Secretary-General to conform to the advisory opinion of the International Court of Justice was inapplicable, as the Secretary-General's functions were administrative only and he was not competent to rule upon the compatibility of reservations with the object of a convention.

9. Moreover, the draft resolution's component parts had been included for different motives and had no logical sequence. Such a text would enable certain States to evade their obligations under international law, with possibly serious consequences. He was convinced that the majority which had adopted the draft resolution would soon have to reconsider its decision.

10. The Yugoslav delegation had voted against the motion not to put the joint draft resolution (A/C.6/L.198) to the vote. It felt that the resolution which had been approved did not resolve the problem, which should be reconsidered by the International Law Commission. The Committee had taken no decision on that point and the joint draft resolution should therefore be put to a vote.

11. Mr. MAJID ABBAS (Iraq) said he had voted for the draft resolution adopted by the Committee because in his view, despite the contentions of certain delegations, the draft did not favour either of the two rival systems. In the case of the Convention on Genocide, Iraq accepted the opinion of the International Court of Justice. If, however, the text adopted had not been a compromise solution, the delegation of Iraq would have reserved the right to reconsider its position when the draft resolution was submitted to the plenary meeting of the General Assembly.

12. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) considered that the text of the draft resolution approved by the Committee did not require any comment. The text to be adopted by the General Assembly would alone serve as a guide for the Secretary-General. Though his delegation had voted for the draft adopted by the Committee, it still took the view it had held at the fifth session of the General Assembly, that each State, by virtue of its sovereignty, had the inalienable right to make reservations to any convention. The juridical result of such a reservation was that the convention was in force as between the reserving State and all other parties to it, with the exception of the clauses to which reservations had been made. His delegation had nevertheless voted for the text adopted because the procedure proposed therein for making reservations to multilateral conventions ensured the possibility of the practical implementation of the afore-mentioned sovereign right of States.

13. Mr. TARAZI (Syria) said he had voted for the draft adopted by the Committee. He noted with pleasure that the delegations of the USSR and of the United States of America had voted together and that the delegations of the Arab countries had contributed to that result.

14. Mr. MOUSSA (Egypt) said that he had been pleasantly surprised by the homogeneity of the text approved by the Committee. The text allowed for the insertion in conventions of clauses regarding reservations, clarified the Secretary-General's functions as depositary and marked the rejection by a large majority (29 votes to 11) of the Sixth Committee of the principle of unanimity implicit in sub-paragraph (*b*) of point 4 of the amendment submitted by the United Kingdom (A/C.6/L.190).

15. He regretted that he had by mistake voted against point 3 of the United Kingdom amendment (A/C.6/L.190). He had then voted against point 4, sub-paragraph (*a*) of the United Kingdom amendment. Like the representative of Ecuador, he was pleased to note that the possibility of inserting in multilateral conventions provisions relating to the admissibility or non-admissibility of reservations had been taken into consideration.

16. Mr. SETTE CAMARA FILHO (Brazil) said that his delegation's point of view had been modified neither by the discussions nor by the vote. He regretted the discontinuance of the League of Nations practice. The Brazilian delegation had voted against the draft adopted by the Committee, because it led to confusion and made no contribution to the development of international law. In particular, representatives had not even been able

to decide in the course of the discussions whether a ratification with reservations was to affect the entry into force of a convention.

17. Mr. HERRERA BAEZ (Dominican Republic) said that despite the deficiencies and limitations of the resolution just adopted, the Dominican delegation had voted in favour of it because in its opinion the resolution advocated a desirable change in the practice of the League of Nations governing the effect of reservations to multilateral conventions. In addition, it felt that the resolution made it clear that it was for States to decide on the legal effects of the reservations made by another State or States to a multilateral convention. Third, the resolution was a step towards a definite lead in the matter of reservations and last it avoided any subsequent abuses in regard to reservations.

18. Mr. BA MAUNG (Burma) explained that he had been unable to take part in the vote but that in any case his delegation would have wished to abstain, in view of the small majority emerging in support of the United States draft. He regretted that the joint draft resolution (A/C.6/L.198) had not been adopted.

19. Mr. ROLLING (Netherlands) said he felt bound to comment on the Egyptian representative's statement. Mr. Moussa was mistaken in his interpretation of the Committee's decision to reject the last sub-paragraph of point 4 of the United Kingdom amendment (A/C.6/L.190). The Netherlands delegation had voted against that amendment in order that the decision should be left to the International Law Commission. He considered that many delegation's votes could be explained on similar grounds.

20. Mr. BUNGE (Argentina) explained that his delegation had abstained from voting on the Committee's draft as a whole because paragraph 2, sub-paragraph (*b*) of the joint Argentine, Belgian and Egyptian amendment (A/C.6/L.202) had been rejected, which left a serious gap.

21. Mr. VAN GLABBEKE (Belgium) said he also wished to comment on the Netherlands representative's statement. Under the rules of procedure, Mr. Roling should have confined himself to explaining his own vote and should not have interpreted that of other delegations.

22. The Belgian delegation had voted for the draft resolution approved by the Committee, which was sufficiently explicit. He regretted that the memorandum submitted by the delegation of Canada (A/C.6/L.201) had not been mentioned in the decision and he expressed the hope that the International Law Commission would take it into account in its study on the law of treaties.

23. The CHAIRMAN requested members of the Committee to speak strictly in explanation of their votes in accordance with rule 127 of the rules of procedure, and not to take the floor more than once in order to offer their explanations.

24. Mr. REY (Peru) said his delegation had voted against the Committee's draft because, as the Mexican representative had explained, the Committee had, at the time of the vote, still been dealing with the joint draft resolution (A/C.6/L.198), and because Peru, as one of its co-sponsors, perforce had had to oppose any other text.

25. Mr. MAKTOS (United States of America) replying to the Israel representative, said that in reaching a decision the Committee members had surely been guided by serious considerations. Contrary to what the Israel representative had said, by the terms of the resolution adopted, the Secretary-General did receive directives and the value of the International Law Commission's work was recognized on a par with that of the opinion of the International Court of Justice. Mr. Maktos hoped that those whose views had not prevailed would find consolation in knowing that henceforth they could insert reservations into conventions without running the risk of having their opinion set aside by the objection of a single State.

26. The CHAIRMAN again recalled that, under rule 127 of the rules of procedure, members of the Committee should limit themselves to explaining their votes.

27. Mr. MENDEZ (Philippines) hoped that his explanations of his delegation's position would appear in the summary record of the meeting.

Report of the International Law Commission covering the work of its third session (A/1858), including: (*a*) Question of defining aggression (chapter III)

[Item 49 (*b*)]*

28. Mr. P. D. MOROZOV (Union of Soviet Socialist Republics) said the first point to note was the scope of the question. It was most important that the question should be settled equitably so that the United Nations could carry out its essential task, which was to maintain peace throughout the world, prevent and punish acts of agression, and punish agressors.

29. It was unnecessary to prove that with the aid of a precise definition of aggression it was possible to determine the aggressor in a conflict between several States, and that it also permitted prompt action under Chapter VII of the Charter, in case of aggression.

30. History showed the need for such definition. The aggressor had always been at pains to prove that he was acting in self-defence and to justify himself by creating a situation which appeared to threaten his security. For that reason the Soviet Union Government, faithful to its policy of peace, had always attached the greatest importance to the question of defining aggression.

31. During recent years the definition of aggression proposed by the Soviet Union had met with the support of a large number of States and the principles contained in the USSR definition had in that way become recognized principles of international law. For example, on the USSR proposal submitted to the Second World Disarmament Conference in 1933 [3] the Security Committee, which comprised representatives of seventeen States, had adopted a definition of aggression [4]. Further, a series of conventions had been signed in London on 3, 4 and 5 July 1933 between the Soviet Union and eleven other States;[5] the purpose of those conventions had been to define aggressors taking as a basis the

[3] See *League of Nations, Conference for the Reduction and Limitation of Armaments, Minutes of the General Commission, Series B, vol. II*, p. 237.

[4] See *League of Nations, Conference for the Reduction and Limitation of Armaments, Preliminary Report on the work of the Conference, Geneva, 1936*, page 40.

[5] See *League of Nations, Treaty Series*, vol. CXLVII, No. 3391 and vol. CXLVIII, Nos. 3405 and 3414.

definition supplied by the Soviet Union and submitted to the Disarmament Conference, and they had described in express terms certain circumstances which did not excuse an act of aggression.

32. Other definitions of aggression occurred in numerous instruments of international law. For example, Colombia, in its reservation to the Convention on the Fulfilment of the Existing Treaties between the American States, signed at Buenos Aires in 1936, had defined aggression. The ideas of the London Conventions were repeated in the Inter-American Treaty of Reciprocal Assistance signed at Rio de Janeiro in 1947. Distinguished writers on international law—Lauterpacht, Le Fur and others—had expressed the view that the definition of aggression represented a notable contribution to international law.

33. At the fifth session of the General Assembly the USSR, continuing its struggle for peace and believing it essential to give necessary guidance to the international bodies which might be called upon to determine the party guilty of aggression had proposed that the General Assembly should define the notion of aggression.[6] The material provisions of the definition then proposed by the USSR were based on the definition of 1933; they were repeated and supplemented in a draft resolution which the USSR delegation was submitting to the Sixth Committee (A/C.6/L.208). Under the terms of that definition, in an international conflict that State should be declared the attacker which first committed one of the following acts:

(*a*) Declaration of war against another State;

(*b*) Invasion by its armed forces, even without a declaration of war, of the territory of another State;

(*c*) Bombardment by its land, sea or air forces of the territory, or deliberately attacking the ships or aircraft, of another State;

(*d*) The landing or penetration of its land, sea or air forces inside the boundaries of another State without the permission of the Government of the latter, or the violation of the conditions of such permission, particularly as regards the length of their stay or the extent of the area in which they might stay;

(*e*) Naval blockade of the coasts or ports of another State;

(*f*) Support of armed bands organized in its own territory which invaded the territory of another State, or refusal, on being requested by the invaded State, to take in its own territory any action within its power to deny such bands any aid or protection.

34. Those proposals stated expressly that aggression could not be justified by any arguments of a political, strategic or economic nature, or by the desire to exploit natural resources in the territory of the State attacked or to derive any other advantage or privilege, or by reference to the amount of capital invested in the State attacked or to any other particular interests in its territory, or by the affirmation that the State attacked lacked the distinguishing marks of statehood.

35. Those arguments had invariably been relied on by aggressors for the purpose of deceiving public opinion and escaping responsibility. Accordingly the Soviet Union draft resolution provided that, in particular, the following could not be used as justifications for attack:

A. The internal position of any State; as, for example:

(*a*) The backwardness of any nation politically, economically or culturally;

(*b*) Alleged shortcomings of its administration;

(*c*) Any danger which might threaten the life or property of aliens;

(*d*) Any revolutionary or counter-revolutionary movement, civil war, disorders or strikes;

(*e*) The establishment or maintenance in any State of any political, economic or social system;

B. Any acts, legislation or orders of any State, as for example:

(*a*) The violation of international treaties;

(*b*) The violation of rights and interests in the sphere of trade, concessions or any other kind of economic activity acquired by another State or its citizens;

(*c*) The rupture of diplomatic or economic relations;

(*d*) Measures in connexion with an economic or financial boycott;

(*e*) Repudiation of debts;

(*f*) Prohibition or restriction of immigration or modification of the status of foreigners;

(*g*) The violation of privileges granted to the official representatives of another State;

(*h*) Refusal to allow the passage of armed forces proceeding to the territory of a third State;

(*i*) Measures of a religious or anti-religious nature;

(*j*) Frontier incidents.

36. History showed that criminals who had started a war invariably tried to justify their acts by pleading one of those reasons; history therefore proved the soundness of the USSR definition. He mentioned a number of arguments pleaded in their defence by certain war criminals—in particular, by Araki—who had been tried by the International Military Tribunal for the Far East and the International Military Tribunal at Nürnberg.

37. Hence, in the interests of world peace, it was imperative that the United Nations should formulate a precise definition of aggression, and should, in keeping with the Soviet definition, declare aggressive war inexcusable. Such a definition was likewise essential so that anybody who thought of resorting to aggression should realise that no excuse would be accepted as justification for his criminal act. The USSR proposal respected the right of self-defence proclaimed in the Charter by providing that in the event of mobilization or concentration by another State of considerable armed forces near its frontier, the State which was threatened by such action should have the right of recourse to diplomatic or other means of securing a peaceful settlement of international disputes, and might also in the meantime adopt requisite measures of a military nature similar to those described earlier in the text, without, however, crossing the frontier.

38. After the USSR delegation had submitted its proposal to the fifth session, the General Assembly had referred the question to the International Law Commission, whose report was now before the Sixth Committee. Mr. Morozov felt bound to state that the Commission could not be said to have dealt with the question of defining aggression satisfactorily. It had in fact refused to examine the USSR proposal and to adopt a definition of aggression. After rejecting a series of definitions which in any case had been defective, the Commission had rejected by six votes to four Mr. Alfaro's proposal

[6] See *Official Records of the General Assembly, Fifth Session, Annexes*, agenda item 72, document A/C.1/608/Rev.1.

to continue efforts to define aggression. It had merely inserted in the draft code of offences against the peace and security of mankind two entirely inadequate provisions. It had declared that aggression was a crime against mankind—which was obvious and said nothing new, since that had been recognized before in the Nürnberg principles. Those provisions failed to specify what acts constituted aggression, a material point for the purpose of determining the aggressor in an international conflict. The USSR delegation therefore considered that the International Law Commission's definition would enable an aggressor to evade the legal consequences of his actions.

39. He proceeded to discuss why the International Law Commission's work was unsatisfactory. Some of its members had not wished aggression to be defined. Mr. Spiropoulos, the Commission's rapporteur for the particular question, had reported (A/CN.4/44, chapter II) that the idea of aggression defied definition in legal terms, since such a definition would be an artificial construction which, when applied to specific cases, might easily lead to conclusions contrary to the « natural » notion of aggression. Other members of the International Law Commission had taken the same attitude; for example Mr. Scelle had said that it was impossible to give an enumerative definition of aggression which could cover all cases. Such statements were incorrect and devoid of any legal sense. In any case, Mr. Scelle had taken the opposite view in an article on aggression and self-defence which had appeared in *L'esprit international* in 1936. Mr. Morozov quoted from other authors, including Louis Le Fur, who, in an article on the « London Conventions » published in the *Revue du droit international de sciences diplomatiques, politiques et sociales* (Vol. XI, 1933), had recognized the value of the definition of aggression given in the London Conventions of 1933. Professor Lauterpacht also had referred to the USSR definition of aggression in an article published in the proceedings of the Grotius Society (volume XX, 1934). In municipal law no one dreamed of criticizing the definition of murder on the grounds that it was incomplete; publicists should dwell less on the frequently specious objections to the definition of aggression than on the progress to which such a definition might lead in international law. He also quoted from the sixth (1944) edition of Oppenheim's *International Law*, in which Professor Lauterpacht again dealt with that question and said that a definition of aggression would be an effective obstacle to governments which wished to camouflage aggression as self-defence.

40. Those examples showed that the reasons for the obstinate refusal to define aggression were in no way legal—since the absence of a definition could serve only the aggressor—but were considerations of politics and expediency. Mr. Spiropoulos had in fact admitted that when he had said that even if it were theoretically possible to define aggression, practical reasons would make it undesirable to do so. He had also said that it would be wrong to decide whether an act of aggression had or had not been committed without taking into consideration the subjective element of the idea of aggression—the *animus aggressionis*. But, Mr. Morozov commented, that procedure would give a State which had committed one of the acts enumerated in the USSR proposal the opportunity of escaping the legal consequences of its action by claiming the absence of *animus aggressionis*. That, in fact, had been the plea put forward by the Japanese and German war criminals.

41. He was therefore bound to state that the supposedly legal formulae suggested by the International Law Commission were entirely alien to genuine jurisprudence. Whatever might be their sponsors' intentions, their only effect could be to justify aggression.

42. The USSR delegation reiterated its desire that a precise and exhaustive definition of aggression should be formulated. Its proposals were in accordance with the generally recognized principles of international law and with international practice. He was convinced that in adopting that definition the General Assembly would strengthen international peace and security, and trusted that all representatives who desired the realization of that objective would support his delegation's proposal.

43. Mr. HSU (China) said the Committee was faced with two questions : firstly, since the International Law Commission had not succeeded in defining aggression, should the Sixth Committee itself attempt to work out a definition ? Secondly, if the answer to the first question was in the affirmative, what procedure should be followed? He proposed to make a few comments which might assist the Committee to answer the two questions.

44. The majority of the International Law Commission had interpreted General Assembly resolution 378 B (V) as a request for a definition of aggression. When the question whether the Commission was qualified to undertake the task had arisen, the Rapporteur had given a negative reply, indicating that there existed no criterion to appreciate the subjective element of aggression. However, six of the ten members present had expressed their disagreement with that view. Mr. Hsu referred to a passage from the memorandum submitted by Professor Scelle (A/CN.4/L.19 and Corr.1), according to which a definition was not necessarily a criterion that could be applied in each particular case, but rather a concept not necessarily covering all individual cases; according to Mr. Scelle, there was no subjective criterion for any offence in penal law, since there was nothing to determine whether there had been premeditation, negligence, fraud, misrepresentation, etc. Aggression, like self-defence, was characterized by recourse to force, the only difference between the two concepts being in the element of intent, in the purpose for which the force had been employed. On the principle that every offence contained an objective element, which could be defined, and an element of intent, the subjective assessment of which depended solely on the judge's opinion, Mr. Scelle stated in his memorandum that it was possible to define the objective element common to all aggression, the judge or judicial body being left quite free to determine the aggressor.

45. Accordingly, the majority of the International Law Commission had considered it possible to undertake the task which the General Assembly had entrusted to it, but it had finally abandoned the attempt. Each member of the Sixth Committee could consult the minutes of the meetings [7] and the report of the International Law Commission and draw his own conclusions concerning the causes for the change of attitude. For his part, Mr. Hsu believed that the International Law Commission had been too hasty and had not made full use of the agreement in principle among members on the fundamental issues.

46. On the question of the form of the definition of aggression the members of the Commission had been at one in recognizing that what was needed was not an exhaustive list of the acts of aggression, as the League of Nations had attempted, but rather the formulation of

[7] See documents A/CN.4/SR.92-96, 108-109, 127-129 and 133.

a norm; however, in view of the modern concept of aggression, some members had stressed the need to enumerate certain clearly defined acts of aggression, on the understanding that the enumeration would not be exhaustive. Nor had the Commission been seriously divided on the question of substance. The Committee as a whole had recognized that aggression was resort to armed force for any purpose other than self-defence or the implementation of enforcement action decided by the United Nations, but that it did not cover resort to armed force alone. While some members—the more conservative group—had wished to leave the definition in an abstract and simplified form to avoid the possibility of criticism on legal grounds, others—forming what might be called the liberal group—had felt that at the current stage of development of the concept of aggression any definition which did not explicitly include what was commonly known as indirect aggression would be useless and in any case of less value than the Politis formula included in the 1933 London Conventions.

47. If the Sixth Committee decided itself to take up the problem referred to the International Law Commission, it could begin at the point where the Law Commission had left off. In his view, a liberal rather than a conservative approach was preferable in defining aggression. Although aggression had been condemned ever since there were international relations, it was not until the League of Nations was formed that the condemnation had passed from the moral sphere to that of positive law. In defining aggression, it was essential therefore to bring out all the phases of the crime instead of leaving them to be discovered later, and to specify some principal acts of aggression so as to provide some guidance for those who sought enlightenment. Moreover, the Committee should think not only of specialists in international law or judges of international courts, but also of the man in the street and of the representatives of governments on the Security Council and in the General Assembly who were interested principally in enlightening the public as to what might constitute the crime of aggression and in warning it against that crime. For that purpose, as the liberal group of the International Law Commission had pointed out, a definition of aggression must obviously include indirect aggression.

48. He proceeded to discuss the nature of indirect aggression. The Politis formula, which had been sponsored by the United States at the International Conference on Military Trials held in London in 1945, mentioned "provision of support to armed bands formed in the territory of one State and invading another State or refusal on the part of the first State, notwithstanding the request of the invaded State, to take in its own territory all the measures in its power to deprive such armed bands of all assistance or protection". Similarly, General Assembly resolution 380 (V) mentioned aggression committed by fomenting civil strife in the interest of a foreign Power, or otherwise.

49. It could be concluded from the two instances mentioned that indirect aggression was aggression which was not committed openly and in which force other than armed force was used. It followed that the arming of organized bands or of third States against the victim State, the maintenance of a fifth column in the territory of the victim State or the promotion of subversion against its political and social order were acts of indirect aggression.

50. Aggression in general could therefore be defined in the following manner:

> "Aggression is a crime against the peace and security of mankind. It consists of the illegal employment, open or otherwise, of force, armed or otherwise, by a State against another State. Among other acts, it includes:
>
> "(*a*) Waging of war, declared or undeclared, general or limited;
>
> "(*b*) Arming of organized bands or of third States for offence against a State marked out as victim;
>
> "(*c*) Planting of fifth columnists in a victim State or promoting subversion against its political and social order".

51. The Chinese delegation considered that a definition of aggression was both possible and desirable. If the Sixth Committee was not prepared to accept the definition he had suggested, it could at least be used as a basis for discussion. If the Committee should decide not to proceed with the task of definition, Mr. Hsu hoped that it would not act on the current false assumption that definition would fetter the freedom of victims of indirect aggression. He asserted that no definition, however restrictive, could prevent the victims of indirect aggression from exercising their right of self-defence in the same way as the victims of direct aggression.

The meeting rose at 1.35 p.m.

Printed in France

A—93500—January 1952—3,600