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Chairman: Mr. K. Krishna RAO (India).

In the absence of the Chairman, Mr. Gobbi (Argentina), Vice-Chairman, took the Chair.

AGENDA ITEM 86

Report of the Special Committee on the Question of Defining Aggression (continued)* (A/7185/Rev.1)

1. Mr. LAMPTEY (Ghana), introducing the report of the Special Committee on the Question of Defining Aggression (A/7185/Rev.1), in his capacity as Rapporteur of that Committee, said that part V of the report, containing the Special Committee's recommendation concerning its future work, had already been considered by the Sixth Committee (1028th meeting). That recommendation, reflecting the wish of the majority of the members of the Special Committee that its work should be continued with a view to the preparation of "a report containing a generally accepted draft definition", was based on an overwhelming feeling that the 1968 session had been extremely useful. Even those members who had not been over-enthusiastic had shared the general feeling that the twenty-four meetings held by the Special Committee had been insufficient to bring about a harmonization of doctrinal and other views on so difficult a question as the definition of aggression. In any case, the remarkably constructive attitude of delegations, the determination of most to ensure an atmosphere free of propaganda and recrimination, the quality of the membership and the Special Committee's choice of an objective and impartial Chairman in the person of Mr. Yasseen had made the 1968 session one of the best held on that question since the matter had first been examined in the League of Nations in 1923. A reading of the report revealed the justification for the Special Committee's optimism in recommending to the General Assembly the extension of its mandate. Clearly, it would serve the interest of the Special Committee if there was a thorough airing in the Sixth Committee of views on the proposals contained in the report.

2. At the outset, there had been a dispute in the Special Committee on whether it was to propose a draft definition of aggression or merely to report

the interchange of views within it to the General Assembly. Fortunately it had concluded that paragraph 3 of General Assembly resolution 2330 (XXII), which formed its mandate, was flexible enough to encompass both views and that the one was not incompatible with the other. Despite some views to the contrary, it had been felt that a definition of aggression in legal terms could form a vitally essential instrument for the guidance not only of the United Nations but also of Member States, in their attempts to fashion an essentially pacific and legally ordered international community. Also, while there had been no challenge to the view that the Security Council predominated in the determination of acts of aggression and the consequential results that must emanate from the Organization, most of the members of the Special Committee had felt that the General Assembly as an organ for discussion and ultimate recommendation of specific action to Member States should find such a legal definition extremely useful.

3. That appreciation of the role of such a definition, coupled with an understanding of some of the reasons for the failure of past attempts and an awareness of the most effective instrument feasible at that stage of inter-State relations, had led to a consensus in the Special Committee that it should seek a mixed type of definition. The majority had felt that the definition must be embodied in a declaration similar to those adopted by the General Assembly on human rights, territorial asylum, etc. The members of the Special Committee had naturally considered that, having subscribed to the Charter of the United Nations, they must base the definition on the Charter's employment of the term "aggression". However, there remained conflicting views on the scope of that term. The problems which had been raised in the Special Committee in that respect, e.g. whether the Charter envisaged economic and ideological aggression in its employment of the term and what effect United Nations recommendations such as General Assembly resolution 1514 (XV) had on the use of the term in the Charter, must certainly engage the Sixth Committee's attention.

4. The Special Committee would also appreciate the views of the Sixth Committee on several other points on which there had been differences of opinion. Although the overwhelming majority of its members had felt that its effort must relate basically to armed aggression because it was quite susceptible to definition, even if not the most appropriate choice at that time, there had been no consensus as to the treatment to be given to indirect armed aggression in the draft definition. The question had been whether an attempt should be made to define that form of aggression, a task universally recognized as much

*Resumed from the 1028th meeting.

more difficult than the definition of direct aggression, or whether realistically that aspect of the question should be provisionally left open to the Security Council. In addition, the Special Committee had discussed the question of economic and ideological aggression, the principle of priority, aggression and self-defence, and the principle of proportionality, developed at the eighteenth meeting of the Special Committee on 1 July 1968 by the representative of the Democratic Republic of the Congo but not too adequately dealt with in the report.

5. He drew the Committee's attention to the sections of the report concerning the relationship between a definition of aggression and other work undertaken by the United Nations, and said that, as far as the work of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States was concerned, the majority view had been that there was no invasion of jurisdiction and that, in the case of the Draft Code of Offences against the Peace and Security of Mankind and the question of an international criminal jurisdiction, the view had been that there was an urgent need for an expeditious and final conclusion of the work on defining aggression.

6. In conclusion, he expressed the conviction of the members of the Special Committee that the discussion in the Sixth Committee would be as constructive and as free of bitter exchanges as the work at Geneva had been.

7. Mr. OSTROVSKY (Union of Soviet Socialist Republics) recalled General Assembly resolution 2330 (XXII) on the need to expedite the drafting of a definition of aggression in the light of the present international situation and stressed the importance of that question. The existence of such a definition not only would discourage forces which had not yet renounced their opposition to the purposes of the United Nations Charter and the methods recommended in the Charter; it also would put the Security Council in a position to take more vigorous and effective measures, which would substantially strengthen United Nations action and the possibilities for enforcement of the Charter.

8. As the Rapporteur of the 1968 Special Committee on the Question of Defining Aggression had stated clearly, that Committee's report showed that conditions were favourable to the progress of the work on the question. The vast majority of its members had spoken in favour of drafting a definition of aggression, but, since for lack of time it had not succeeded in completing its task, the Special Committee had recommended to the General Assembly that it should be permitted to resume its work as soon as possible, so that it might adopt a generally accepted draft definition.

9. At its 1028th meeting, the Committee had considered part V of the report in question and had decided, because of the particularly heavy agenda of the present session of the General Assembly, that the work of the Special Committee would not be resumed before the end of 1968. It had been apparent from the discussion which had preceded that decision that the great majority of Member States wanted

the Special Committee to conclude its work and submit a report containing a draft definition of aggression to the General Assembly. Their attitude was understandable, particularly as it could never have been seriously contended that it was impossible to draw up a definition; in fact, those few States which were opposed to that project simply disliked the idea of being bound by such a definition. The Soviet Union had always considered that a definition of aggression would render the greatest service and could prevent aggression; unfortunately, even in the days of the League of Nations, leaders such as Mussolini had opposed its efforts and had prevented the adoption of a definition of aggression.

10. However, the question was not solely a political or moral issue, since it had already found expression in such instruments as the London Conventions of 1933,^{1/} the 1937 Saad-Abad Treaty^{2/} and elsewhere. More recently, at the 1944 Conference of Dumbarton Oaks, the Soviet delegation had emphasized the need for a definition of aggression and in 1950 it had requested that the question be inserted in the General Assembly's agenda.^{3/} At its sixth session, the General Assembly had adopted a resolution to the effect that it was desirable to define aggression (resolution 599 (VI) of 31 January 1952) and had resumed examination of the question at its seventh, ninth and twelfth sessions, while a committee specially established for the purpose had taken up the question in 1953^{4/} and 1956.^{5/} Despite the real efforts made, the work had been interrupted in 1957 and was still not completed. For some ten years the adversaries of the definition of aggression had been maintaining that the time had not come to resume consideration of the question. That somewhat fluid situation could have continued for a long time if the USSR had not taken the initiative, at the twenty-second session, of requesting that the General Assembly again appoint a special committee.^{6/}

11. Having thus described the history of the question, he proceeded to examine some of its special aspects.

12. It would be a mistake to think that there was nothing in law on the question. Besides the 1933 London Conventions and the 1937 Saad-Abad Treaty, new texts, such as the Charter of the United Nations, the principles recognized by military tribunals such as that of Nürnberg, the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the resolution on measures to be taken against propaganda and the inciters of a new war (General Assembly resolution 110 (II) of 3 November 1947), had appeared during the past twenty-five years.

^{1/} Conventions for the Definition of Aggression, signed in London in July 1933 (League of Nations, Treaty Series, vol. CXLVII (1934), No. 3391; ibid., vol. CXLVIII (1934), Nos. 3405 and 3414).

^{2/} Treaty of Non-Aggression, signed at Teheran on 8 July 1937 (League of Nations, Treaty Series, vol. CXC (1938), No. 4402).

^{3/} For the 1950 draft resolution of the USSR on the question of defining aggression, see Official Records of the General Assembly, Fifth Session, Annexes, agenda item 72, document A/C.1/608.

^{4/} The 1953 report of the Special Committee on the Question of Defining Aggression is reproduced in Official Records of the General Assembly, Ninth Session, Supplement No. 11.

^{5/} For the report of the 1956 Special Committee, see Official Records of the General Assembly, Twelfth Session, Supplement No. 16.

^{6/} See Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 95, document A/6988, para.2.

However, the factor common to all those documents was that they contained no precise definition of aggression.

13. The Soviet delegation had already proposed two draft definitions, one in 1957,^{7/} based on the 1933 Conventions and embodying specific elements, listing acts constituting acts of aggression and above all defining armed aggression which was the most dangerous manifestation of force and the other, placed before the Special Committees of 1953 and 1956,^{8/} taking into account the comments made by other delegations and considering indirect, ideological and economic aggression, though armed aggression remained the most important aspect, since it represented the greatest danger to world peace and security. Being based on Article 2, paragraph 4, and Articles 39 and 51 of the United Nations Charter, the Soviet formula laid very special emphasis on armed attack.

14. But, for all its importance, the Soviet proposal alone was not perhaps entirely sufficient; it should be possible, bearing in mind the comments of other delegations, to find a formula capable of securing general agreement. In any case, contrary to the expectation of certain Powers, the Special Committee had unquestionably done much to hasten the solution of the problem, and the African, Asian and Latin American countries had played a particularly active role in that respect, a fact which augured well for a speedy outcome to the Special Committee's work.

15. The debates on the three draft proposals of the African, Asian and Latin American countries (see A/7185/Rev.1, paras. 7-9) emphasized the positive side of the record of the work of the Special Committee, the majority of whose members had expressed agreement on the following basic elements: special importance must be attached to armed aggression as provided for in the United Nations Charter; the definition adopted should be mixed in the sense that it should be based on scientific and abstract criteria while at the same time listing specific acts; criteria for distinguishing between armed aggression and legitimate self-defence must appear in the definition; the Security Council's discretionary power in the matter must be emphasized; resort to force against national liberation movements or against peoples fighting colonialism must be regarded as armed aggression and a serious violation of the Charter; and finally, there must be no exception to the principle that armed aggression was a crime against humanity.

16. The Special Committee's report bore witness to the importance of the work accomplished. It showed, moreover, that it should be possible to produce a definition of armed aggression fairly rapidly. The Soviet delegation remained convinced that an appropriate definition of that form of aggression

would serve international peace and security. In its awareness of the special responsibility incumbent on its country, it would support any international initiative which would promote the interests of peace and security. It hoped it would be possible for the Special Committee to resume its work at the beginning of 1969 in order to be able to accomplish the task entrusted to it.

Organization of the work of the Committee

17. Mr. ENGO (Cameroon) recalled that at the 1072nd meeting the Ethiopian representative, speaking on behalf of the non-aligned countries, had expressed the wish that work on the preparation of a convention on special missions should continue as soon as possible. At the current meeting, only one delegation had spoken on the question of the definition of aggression, so that some of the time available to the Committee had been wasted. It might be useful if the Chairman were to fix as early a date as possible for the closure of the list of speakers on the question of the definition of aggression. Besides preventing further loss of time, that would obviate crowding of the last meetings and ensure better use of the forthcoming ones.

18. The CHAIRMAN shared the concern of the Cameroonian delegation, reflecting the views of the non-aligned countries. Currently, the Drafting Committee on Special Missions was busily at work, and it was not really possible to speak of wasted time. Although the Sixth Committee had set aside nine meetings for examination of the question of the definition of aggression, there was obviously advantage in making the best use of the time available. He announced, therefore, that he proposed to close the list of speakers on that question at 1 p.m. on Wednesday, 20 November 1968.

19. Mr. YASSEEN (Iraq) considered that when a meeting of the Committee had to be adjourned before the usual time for want of members ready to speak on the agenda item, the remaining time could be used with advantage to examine other questions. He wondered whether the question of special missions could not be kept on the agenda and taken up again if the occasion arose. To judge by past experience, it was likely that the debate on the consideration of principles of international law concerning friendly relations and co-operation among States would also leave gaps, and that procedure would make it possible to take advantage of them.

20. The CHAIRMAN said that, although he recognized the practical value of those comments, the Committee at its 1072nd meeting had adopted its programme of work. He felt that, in following up the Cameroonian delegation's suggestion, he had given the Committee the possibility of organizing its time-table judiciously. If only a few speakers wished to speak on the question of the definition of aggression, the time thus saved could be devoted to the question of special missions.

The meeting rose at 4.25 p.m.

^{7/} See Official Records of the General Assembly, Twelfth Session, Supplement No. 16, annex II, section 1.

^{8/} Ibid., Ninth Session, Supplement No. 11, annex.

