United Nations
GENERAL
ASSEMBLY
TWENTY-THIRD SESSION
Official Records

SIXTH COMMITTEE, 1077th MEETING

Friday, 22 November 1968, at 11 a.m.

NEW YORK

CONTENTS

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. IONESCU (Romania) said that, as history had shown, doctrines which regarded force as the basis of State policy had never received general recognition, because the order and stability which were the hallmarks of peace could not be achieved or imposed by force. The development of international relations had to be based on the principles of law and morality, which required the observance of national independence and sovereignty, equal rights of States, non-interference in the internal affairs of States, and mutual interest.

2. Romania had always displayed an active interest in defining aggression and regarded it as the most important element affecting the security of States. Romania had been a party to the Briand-Kellogg Pact[1] when the first scientific definition of aggression, submitted to the League of Nations in 1933, had been adopted. It had also signed the Convention for the Definition of Aggression of 3 July 1933[2] and acceded to the Anti-War Treaty (Non-aggression and Conciliation) signed at Rio de Janeiro in the same year.[3]

3. In the slow but continuous progress towards a generally accepted definition of aggression, the Charter of the United Nations marked a decisive landmark, for, unlike the preceding international instruments, it not only laid down a prohibition of aggression but also set forth rules and principles constituting the minimum of international legality whose observance was an essential prerequisite for peace and progress in the world. General Assembly resolution 2330 (XXII), of which his country had been a sponsor, marked a new step forward.

4. Strict observance of the principles of international law presupposed the banishment from international affairs not only of the use of armed force but of the use of force in all forms, including political, economic or other kinds of pressure which hindered the normal development of international relations.

5. The work of the highly competent 1968 Special Committee on the Question of Defining Aggression represented a significant advance. In his delegation's view, any scientific definition of aggression should demonstrate the criminal nature of aggression from the legal and political standpoints. Such a definition would have to take into account the right of States to individual and collective self-defence against armed aggression in conformity with the provisions of the Charter, along with the legitimate character of the liberation struggle of colonial peoples, which was the corollary of the sacred right of self-determination. In that regard, he expressed appreciation for the efforts which had resulted in the thirteen-Power draft proposal (see A/7185/Rev.1, para. 9), which constituted a good basis for future work.

6. His delegation agreed that a mixed definition was the most appropriate form and was in favour of the definition being embodied in a draft resolution to be adopted by the General Assembly. Such a resolution would have a major impact on State practice, as well as on the codification and progressive development of international law. The thirteen-Power draft proposal included valuable elements, though there was still room for improvement. Since, in his delegation's view, a comprehensive definition should cover all the essential aspects of the use of force, it approved the provision contained in operative paragraph 4 that enforcement action or any use of armed force by regional agencies might only be resorted to in cases where the Security Council, acting under Article 53 of the Charter, decided to utilize such regional agencies for the purpose. Operative paragraph 6 provided a safeguard by stipulating that no considerations, of whatever nature, except in the cases expressly enumerated, might provide an excuse for the use of force by one State against another. The stipulation in operative paragraph 7 that measures of self-defence not reasonably proportionate to the armed attack provoking them were unjustifiable was an important principle and should be given due consideration. His delegation endorsed the principles contained in operative paragraphs 9 and 10, which defined acts of aggression as crimes against peace and recognized the competence of the Security Council in determining what constituted an act of aggression.

7. It was generally agreed that the 1968 Special Committee had made considerable progress, reflecting a certain détente, a growth of the spirit of responsibility

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[1] General Treaty for Renunciation of War as an Instrument of National Policy, signed in Paris on 27 August 1928 (League of Nations, Treaty Series, vol. XCIV (1929), No.2137).

[2] League of Nations, Treaty Series, vol. CXLVII (1934), No.3391.

[3] Ibid., vol. CLXIII (1935-1936), No.3781.

in the world, and a reaffirmation of moral principles and the rule of law in international life. His delegation favoured the continuation of the Special Committee's work and believed that, if convened at an appropriate time during 1969, the Special Committee could prepare a final draft definition of aggression which would receive general support. The formal adoption of such a definition would be a historic landmark in the progressive development of international relations and international law.

8. Mr. EL REEDY (United Arab Republic) said that his country had consistently supported all efforts towards a definition of aggression, being convinced that such a definition would reinforce the world's consciousness of the gravest international crimes of aggression and assist the Security Council in performing its functions. During the last decade, there had been an increasing tendency towards the use of force and resort to aggression. While it would be unrealistic to believe that a definition would put an end to aggression, it was realistic to believe that it would create a unity of thought in the international community concerning the prohibited acts which constituted aggression. It would also expose aggressors when they attempted to abuse international terminology and distort the language of the Charter to justify their acts.

9. One of the most positive results of the 1968 session of the Special Committee on the Question of Defining Aggression had been the meaningful dialogue which had taken place between those Member States which were convinced of the necessity of formulating a definition of aggression and those which had been traditionally sceptical about the utility of such an undertaking. On the whole, the dialogue had been frank and it had helped considerably in identifying the issues involved.

10. The thirteen-Power draft proposal, the result of intensive informal consultations, was a positive expression of the spirit of co-operation which had prevailed among the Asian, African and Latin American delegations. All three draft proposals submitted (ibid., paras. 7-9) showed a common philosophy and made it clear that a definition of aggression, while it should guide the Security Council, should not prejudice the discretionary powers of the Council. All three proposals followed a combination of the descriptive and enumerative methods. They emphasized territorial criteria as a yardstick in determining the occurrence of aggression, and military occupation, forceful annexation and other forms of territorial acquisition by force were rightly recognized as forms of armed aggression. The three proposals also emphasized the principle laid down in Article 51 of the Charter that only armed attack justified the exercise of the right to self-defence.

11. The amendment submitted by the Sudan and the United Arab Republic (ibid., para. 10) to the thirteen-Power draft proposal had been been acceptable to the large majority of the sponsors of the proposal, and he regretted that owing to lack of time it had not been possible to embody the amendment in the text. The idea of deleting the words "direct or indirect" from operative paragraph 1 was based on the juridical and practical value, widely recognized in the Special Committee, of concentrating on the most ominous form of aggression, namely armed aggression. The introduction into the concept of armed aggression of a reference to the indirect use of force would have dangerous consequences and would also be in conflict with Article 51 of the Charter which made the resort to the right of self-defence dependent on the occurrence of armed attack. Any departure from the strict wording of Article 51 would be a retrograde step. That danger had been recognized by the sponsors of the thirteen-Power proposal (ibid., para. 9), and operative paragraph 8 made due provision for it. Any departure from that principle would be a regression to the pre-Charter era, when the prohibition of the use of force in international relations was not so strict and categorical as it was subsequent to its express proclamation in the Charter. His delegation had been heartened by the excellent juridical analysis of that point by the Mexican representative (1075th meeting).

12. Although the second part of the amendment submitted by the Sudan and the United Arab Republic was not a constituent element of a definition of aggression, its inclusion would serve as a safeguard against any misunderstanding and would be important in the light of the fact that some colonial Powers continued to claim justification for their policy of repression against peoples striving to attain their national aspirations and to exercise their inherent right to self-determination. The text of the second part of the amendment was already included in the twelve-Power and four-Power proposals (ibid., paras. 7 and 8) and had its origin in General Assembly resolution 1514 (XV). He hoped that the amendment would be taken into account when the Special Committee resumed its work.

13. His delegation believed that the work of the 1968 Special Committee had proved both the desirability and the possibility of defining aggression and that the Special Committee should proceed with the continuation of its task at the earliest possible date.

14. The people of the United Arab Republic had been living under the ominous shadow of Israel aggression ever since 5 June 1967. Every day that passed without the withdrawal of the aggressive forces from all the territories they had occupied marked a new phase of aggression. By that continued occupation, Israel was violating the most sacred principles of the Charter and the provisions of Security Council resolution 242 (1967). It was the collective responsibility of Member States to oppose Israel's flouting of those principles and to refuse to give in to a policy which sought to impose a state of despair and submission to aggression. His country would therefore continue to subscribe to every international effort to strengthen the forces of peace and would continue to work for the formulation of a definition of aggression which would contribute to a more effective application of the Charter.

15. Mr. de LIPKOWSKI (France) said that, over the twenty years during which the United Nations had been entrusted with the task of maintaining international peace and security, there had been a striking contrast between the hopes of those who had drafted the Charter for the inauguration of an international

order based on respect for the law and the realities of a world torn apart by force, where the most elementary rules of justice, equality and the sovereignty of States were daily violated. The events of 1968 only served to darken that picture still more. Any interference in the internal affairs of another State was condemnable and violated not only the principles of the Charter, in particular those relating to friendly relations among States, but numerous resolutions of the General Assembly.

16. His delegation regarded the task of the Special Committee on the Question of Defining Aggression as highly important. A consensus had emerged at its 1968 session that a definition of aggression was both necessary and timely and had specified certain criteria for it. The criteria were the following: only a definition limited to the use of armed force was capable of obtaining the agreement of all delegations; the definition of aggression must be based exclusively on the United Nations Charter; the definition should consist of a general formula accompanied by a selective, illustrative enumeration of examples of aggression. His delegation believed that those criteria should be maintained as a basis for future work. However, there were certain other essential factors which must be taken into account. It was essential that the definition should have the endorsement of the greatest possible number of States, including those States which, under the Charter, bore the main responsibility for the maintenance of peace. Otherwise, it would have no practical value.

17. Although the definition might serve as a guide to the Security Council, it could not detract from the Security Council's exclusive power to determine what constituted an act of aggression and to decide on adequate measures to establish peace and security. His delegation believed therefore that the definition should take the form of a declaration, which would have undeniable moral validity.

18. His delegation believed that an attempt to include in the definition all the various pressures to which a State might be subjected would be dangerous, for two reasons. First, it would unduly extend the scope of Article 2, paragraph 4, of the Charter, which would be contrary to the letter of the Charter and to the intention of States as expressed during the preparatory work at the San Francisco Conference. Secondly, it would serve to legalize the acts of individual or collective self-defence proscribed by the very letter of Article 51, which stated expressly that the exercise of self-defence was justified only in the case of armed attack.

19. While it had no desire to legitimate forms of coercion other than armed force, his delegation believed that those forms came under different principles of contemporary international law, in particular the principle of non-intervention in matters within the domestic jurisdiction of any State, which had been entrusted to the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States for study. It should also be borne in mind that under the Charter the use of armed force should be of a sufficiently grave character to threaten international peace and security and that any definition of aggression should take due account of that qualification. The definition of aggression should expressly include the exceptions to the prohibition of the use of force which were set forth in Article 51 of the Charter, relating to self-defence, and in Chapter VII, concerning collective action necessary to maintain or restore international peace and security.

20. In his delegation's view, the thirteen-Power proposal (see A/7185/Rev.1, para. 9) marked a definite advance towards the formulation of a definition of aggression which would meet the criteria he had stated. As it stood, however, the text could not be acceptable to all States. In particular, there were two outstanding questions still to be resolved, the question of indirect aggression, and the principle of priority. A reference to the indirect use of force might excessively widen the concept of aggression, extending it to border-line cases, while still not allowing States to exercise the right of self-defence. It was important that the criterion of priority should be incorporated in the definition; otherwise, there would be no practical means of distinguishing an act of aggression from an act of self-defence. Although the question of priority was not easy to determine in an international conflict, his delegation nevertheless believed that it was possible to find a solution which could reconcile opposing viewpoints.

21. His delegation would consider favourably any proposal which would enable the Special Committee to complete its task.

22. Mr. FRANCIS (Jamaica) said that interesting and useful proposals had been made during the Geneva session of the Special Committee on the Question of Defining Aggression. It appeared that the thirteen-Power proposal provided the basis for the achievement of some form of consensus in the matter, and special attention should be paid to three features of it: first, it made no mention of forms of force more appropriately related to other agenda items dealing with the threat or use of force in the less aggravated sense; secondly, it inscribed the principle of proportionality in the application of self-defence; and thirdly, it recognized the indisputable competence of the Security Council to declare that acts other than those listed in operative paragraph 5 constituted aggression.

23. There were two matters to which the Special Committee should give further thought. First, a form of words should be found for operative paragraph 8 which would avoid giving the impression that the Special Committee was by implication underwriting the clandestine harassment of a State by its neighbour. Secondly, the Special Committee should determine whether the substance of operative paragraph 4 of the twelve-Power proposal submitted to it (ibid., para. 7) was relevant to the current international situation, and if so, whether it should be included in the thirteen-Power text.

24. In introducing the Special Committee's report, the Rapporteur had expressed the hope that the Sixth Committee would comment on the question of self-defence, that of the proportionality of self-defence, and the notion of the first strike. It was in the area of self-defence, particularly regarding the application

of the notion of the first strike, that the real difficulty arose. Unless the nature of that difficulty was appreciated, any definition of aggression would necessarily be disappointing. Article 51 of the Charter provided for the exercise of the inherent right of individual or collective self-defence in the event of an armed attack. There were, however, very conflicting interpretations of Article 51 both by highly qualified publicists and by Governments. Some maintained that a State must have suffered armed attack before it could apply measures of self-defence, while others considered that there were circumstances in which, despite the provisions of Article 51, an anticipatory exercise of the right of self-defence could be justified. It had also been maintained that the use of the word "inherent" in Article 51 did in fact preserve the concept of self-defence hitherto known in general international law. Jurists from common-law countries were familiar with an authority (the case of the Caroline,[4/] which stated that the necessity of self-defence must be "instant, overwhelming, leaving no choice of means and no moment for deliberation". It went on to say, with respect to proportionality, that measures of self-defence should not be unreasonable or excessive and that the act itself must be justified by the necessity of self-defence and kept clearly within it. The elements of proportionality and self-defence were clearly reflected in operative paragraph 7 of the thirteen-Power draft proposal. The divergence of views on the concept of self-defence was, however, so wide that it could not be assumed that the reference to Article 51 of the Charter in operative paragraph 3 of that draft was in itself a solution to the problem. The conflicting opinions prevailing over the interpretation of Article 51 represented genuine differences of view on fundamental matters of principle. If, indeed, the notion of the first strike had been negatived by the terms of Article 51, the General Assembly itself had subsequently been responsible for introducing a degree of conflict for, in resolution 95 (I), it had affirmed the principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgement of the Tribunal. The Nürnberg judgement[5/] had affirmed the notion of the first strike in almost the language of the authority to which he had referred. The question that arose was whether, if Article 51 had, explicitly or implicitly, negatived the notion of the first strike, the affirmation of the Nürnberg judgement had restored that notion. That was a difficult yet important question which must be faced in any discussion of the question of aggression. The Special Committee would perform a useful task if it were to determine the current thinking of its members in that respect. Until agreement was reached on that matter and on aggression generally, Members of the United Nations would need to re-dedicate themselves to the security system envisaged in the Charter.

25. Jamaica hoped that the Sixth Committee would find it possible to enable the Special Committee to continue its work.

26. Mr. PRANDLER (Hungary) agreed that the 1968 session of Special Committee on the Question of Defining Aggression had been among the best of those held on the question since the matter had first come up in the League of Nations in 1923. It was satisfactory to note that the opposition of certain delegations to an attempt to define aggression had given way to a more realistic attitude. It was significant that the debates in the Special Committee were no longer directed towards determining the possibility of defining aggression but rather towards finding a satisfactory definition of aggression.

27. Hungary agreed that a satisfactory definition could result only from a formula acceptable to the great majority of Member States, including the permanent members of the Security Council. The Netherlands representative had declared (1076th meeting) that there was no consensus on a single element of a definition among the permanent members of the Security Council. But it could be concluded from the statements of those permanent members which had already expressed an opinion on the matter that their positions were similar, if not identical, on such questions as the need to pay the most attention to armed aggression, the need to distinguish between aggression and legitimate self-defence, the need for a mixed definition, and the need to ensure that the definition would not hinder the Security Council in exercising its discretionary powers. Hungary was confident that the Powers primarily responsible for maintaining international peace and security would do their best to find a formula acceptable to all of them.

28. The thirteen-Power proposal (see A/7188/Rev.1, para. 9), implying a mixed definition embodied in a declaratory instrument, had received wide support in the Special Committee and was supported by his delegation as being the only feasible one. The wording of the fifth preambular paragraph and operative paragraph 2 should, however, be amended in order to make it clear that responsibility for determining whether aggression had occurred lay with the Security Council, which alone was competent under the Charter to use force.

29. The disagreement persisting on the question whether the definition should contain a reference to the indirect use of force, and on the wording of operative paragraph 8, proved that there were points on which further clarification was required.

30. The suggestion that the question of defining aggression should be transferred to the Special Committee on Principles of International law concerning Friendly Relations and Co-operation among States seemed groundless, in view of the work accomplished in 1968 by the Special Committee on the Question of Defining aggression. Furthermore, it seemed unrealistic to imagine that the former, whose agenda was already overloaded, would be able to deal successfully with so important and difficult a subject. The Hungarian delegation therefore supported the proposal that the Special Committee on the Question of Defining Aggression be instructed to continue its work early in 1969, so that an adequate draft definition of aggression could be prepared and submitted to the General Assembly at its twenty-fourth session.

4/ See American Journal of International Law (Washington, D.C.), vol. 13 (1919), p. 562; also C. John Colombos, LL.D., The International Law of the Sea (London, Longmans, 1959), pp. 289 and 290.

5/ See The Charter and Judgment of the Nürnberg Tribunal (United Nations publication, Sales No.: 49.V.7).

31. Mr KLAFKOWSKI (Poland) said it was the Briand-Kellogg Pact which had definitively outlawed war as an instrument of national policy and condemned it as a means of settling international differences. Although the Pact had been unable to prevent the Second World War, it was as a result of that act of international law that all war was illegal except for legitimate individual or collective self-defence in case of aggression and military action in execution of measures authorized by the Security Council. The right of subjugated peoples to fight for their freedom should also be borne in mind.

32. Article 6 (a) of the Charter of the Nürnberg Tribunal [6] treated aggression as a crime against peace and completed the notion of aggression. It was therefore a constructive legal act in the progressive development of international law. The provision of the greatest legal value was, however, contained in Article 2, paragraph 4, of the Charter of the United Nations, and confirmed by several General Assembly resolutions.

33. A satisfactory definition of aggression would establish the difference between aggression and measures taken in exercise of the right of self-defence; it would facilitate identification of an aggressor, enable the Security Council to establish objective criteria governing aggression, and discourage possible aggression. There were three possible forms of definition: a text in the United Nations Charter, a multilateral convention, or a General Assembly resolution. The first two forms would achieve lex perfecta, while the last would only have the value of a recommendation. It appeared from the Special Committee's report that the majority of its members wanted a mixed definition recognizing the discretionary power of the Security Council to determine the existence of aggression. That approach seemed sufficiently well founded, since a general definition would always be incomplete and it was useless to try to prepare an enumerative definition. In the opinion of his delegation, the definition should relate to both direct and indirect aggression. Priority should, however, be given to direct, armed aggression, which constituted the greatest danger to international security.

34. Mention had been made in the Special Committee of the possibility of aggression by entities whose status was questioned in international law. His delegation regarded such a possibility as problematical. Aggression within a State was not a matter of international law, and it raised the problem of the theory of "internal" aggression, designed to justify intervention in the internal affairs of another State. That, however, was an action contrary to international law and had nothing in common with the notion of aggression. To be effective, a definition of aggression should consist of objective elements and exclude subjective elements such as a State's intention to act.

35. The Polish delegation was convinced that the Special Committee had held a fruitful first session and should be allowed to continue its work. It would therefore vote in favour of an extension of the Special Committee's mandate and agreed that it should meet again at the beginning of 1969.

6/ Ibid.

36. Mr. ROSENNE (Israel) said that during the preceding session of the General Assembly his delegation, while welcoming the Soviet initiative in the matter of drafting a definition of aggression, had doubted its timing and had expressed some hesitation on the manner in which it had been proposed to deal with the topic; it had also given the reasons why it had abstained in the Sixth Committee and in the General Assembly in connexion with Assembly resolution 2330 (XXII). [7] Its hesitation had been based among other things on the lack of clarity as to the purpose of resuming the search for a definition of aggression at that particular moment, and on the possibility that the terms of reference of the Special Committee were not objective enough to enable a satisfactory definition to be achieved. After studying the Special Committee's report, his delegation found all its apprehensions confirmed.

37. There was no serious problem, political or doctrinal, in merely cataloguing in some systematic form instances of what was commonly called direct aggression. It had been done before, both in formal political documents and in unofficial writings, and while the texts could always no doubt be improved, they really enumerated the obvious. But the problem was not simply one of listing the obvious instances of direct aggression; the nub of the whole problem was to find a correct balance between a number of cardinal principles of international law and relations, which were also formalized in the Charter. The inherent right of self-defence was among the most important of them, although not of course the only one. That balancing, if it was to be properly done, led directly into the question of so-called indirect aggression, which could also be, and indeed almost always has, armed aggression; therefore that question could not be avoided.

38. Close examination of some of the texts submitted to the Special Committee, which seemed to ignore that issue, conveyed the impression of a desire to produce a definition of aggression which would be narrow enough to allow a certain aggressive policy, such as the cultivation of international tension through the encouragement of subversive activity or acts of terrorism from the territory of one State against another, and at the same time strict enough to make effective counteraction as a matter of self-defence—which itself was left unaffected by Article 51 of the Charter—superficially illegitimate. Operative paragraph 8 of the thirteen-Power proposal was highly ambiguous in that important respect. The theoretical effect of any definition along those lines, based upon an utterly unreal and unviable distinction between direct and indirect aggression, could be to allow the victim of aggression to defend itself against a dramatic and violent attack from the outside, while on the other hand that same victim would presumably find itself on the wrong side of the law if it took appropriate action, in exercise of its inherent right of self-defence, to protect itself from being throttled or from succumbing to slow poisoning. It was enough to state the proposition to see how unreal it was and how far it was in contradiction to the established law of nations,

7/ See Official Records of the General Assembly, Twenty-second Session, Plenary Meetings, 1618th meeting; ibid., Twenty-second Session, Sixth Committee, 1022nd and 1025th meetings.

and the law of the Charter according to which, when the territorial integrity or political independence of a State was endangered by threats or acts of aggression, appropriate measures of self-defence were admissible irrespective of whether a purely doctrinal classification would assign such threats or acts to the category of direct or indirect aggression.

39. His delegation had hoped that the Special Committee would succeed in reaching a definition of aggression which would be clear, complete and capable of implementation in a fair and objective manner. Its consideration of the Special Committee's report, however, made it seriously doubt whether such expectations were attainable. Indeed, it was extremely apprehensive that if the Special Committee continued to work along the lines on which it had worked in 1968, so much ambiguity would be created that the result would be total chaos in so far as concerned the basic rights of States enshrined in the Charter and the corresponding Charter provisions relating to the powers and functions of the various United Nations organs, including in particular the Security Council. Those powers and functions were not limited to so-called direct aggression.

40. His delegation had noted in the report certain tendentious references to his country; they were partisan and unilateral statements, utterly unsupported by any decision of the Security Council or the General Assembly, and they should have been ruled out of order.

41. There was no point in continuing to burden Governments and the Secretariat with the workload and expense entailed in the continued search for the elusive definition of aggression, given the complicated and difficult international situation today and the chronic shortage of funds experienced both by Governments and by the United Nations. His delegation would hope that constructive work on the topic as a whole could be resumed at a later date when the international situation was more propitious.

42. The allegations made against his country at recent meetings had all been made before and had been dealt with at the time, but facts did not become non-facts and non-facts did not become facts simply by dint of continued repetition. He was content to refer members who wished to make their own investigations to the record, and therefore asked that the summary record should contain adequate references to the documents he would cite.

43. On the general question of aggression in 1967, his delegation had already pointed out that both the General Assembly and the Security Council had flatly rejected any conclusion that Israel had committed aggression. He drew attention to statements made by his country's representatives at the 1566th, 1572nd and 1618th plenary meetings of the General Assembly and at the 1017th and 1022nd meetings of the Sixth Committee. As it had been asked who had taken the initiative regarding the removal of the United Nations Emergency Force, he would simply refer to the Secretary-General's report to the General Assembly on the withdrawal of that Force.[8/] Questions had been raised regarding Security Council resolution 242 (1967) of 22 November 1967. The Sixth Committee was not the forum for discussion of those matters. The statement made by his country's representative at the 1418th meeting of the Security Council had indicated acceptance by his Government of that resolution, for the promotion of agreement on the establishment of a just and durable peace. The Israel Foreign Minister had repeated that several times since and in his major policy statement at the 1686th plenary meeting of the General Assembly had presented a full and documented account of all Israel's painstaking efforts to seek peace in the Middle East. Those efforts were continuing despite the well-known trinity of negatives: no negotiation with Israel, no recognition of Israel and no peace with Israel, stated by President Nasser as recently as July 1968 to be permanent principles of Egyptian policy. Statements such as those heard in the present discussion did not constitute a positive contribution to the peaceful settlement of the dispute.

44. Lastly, the representative of the United Arab Republic had tried to convince members of the innocence of his country regarding the reimposition of an illegal blockade in the Strait of Tiran. In that connexion, his delegation had noted with interest and approval the statement in operative paragraph 5 of the thirteen-Power proposal—an aspect of the proposal which was of much earlier origin and originally of Soviet inspiration—that the blockade of the coasts or ports of a State by the armed forces of another State, with or without a declaration of war, should constitute an act of armed aggression. What had happened in May 1967 could perhaps best be stated in the words of President Nasser himself; on 23 May 1967, after he had reduced the United Nations Emergency Force to impotence, he had said that the occupation of Sharm el Sheikh by his armed forces gave tangible expression to his country's rights and sovereignty over the Gulf of Aqaba, and that there could be no question that the United Arab Republic would under any circumstances allow the Israel flag to pass through the Gulf of Aqaba.

45. Mr. KHASHBAT (Mongolia) said that his delegation had always attached great importance to the question of drafting a generally accepted definition of aggression; at the same time, it fully realized the complexity of the problem. The difficulties arose particularly because the question of defining aggression was not only a legal but also a political question, for behind acts of aggression there lurked political motives and designs. That, however, could not and must not serve as an argument against defining aggression, for with goodwill and sincere efforts it was entirely feasible to draft a legal definition of aggression, as the results of the work done by the Special Committee on the Question of Defining Aggression showed.

46. Unfortunately, even in the Sixth Committee deliberate attempts had been made to divert attention from the substance of the question under discussion. He referred in particular to the unconvincing and cynical performance at the 1074th meeting by a member of a legislature one branch of which—the United States House of Representatives—had in September 1965 adopted a resolution sanctioning the

8/ Official Records of the General Assembly, Fifth Emergency Special Session, Annexes, agenda item 5, documents A/6730 and Add.1-3.

"right" of that country to intervene in any country of the western hemisphere. Such attempts did not constitute a serious approach to the question.

47. The Special Committee had been correct to review in succession the whole range of questions which should be covered in drafting the definition. That approach was entirely logical. Each of the three main proposals submitted to the Special Committee contained many valuable and constructive elements, and although the proposals differed substantially in general approach and structure, they were on the whole complementary. Accordingly, at the present stage his delegation was somewhat reluctant to state a preference among them. His delegation was confident that the sponsors of the proposals could in the future work out an even more satisfactory text. In its view, any final text must cover the following points: the discretionary rights of the Security Council must be preserved; the definition must include all forms of the use of force, whether direct or indirect, but, the rights of peoples fighting for national liberation were lawful; and aggression must be viewed as an international crime.

48. Although it had been unable to complete its work for lack of time, the Special Committee had on the whole done useful work. His delegation saw no contradiction between the work of the Special Committee and that of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. Accordingly, it considered that the Special Committee on the Question of Defining Aggression should resume its work as soon as possible in 1969.

49. Mr. EL REEDY (United Arab Republic), speaking in exercise of his right of reply, said that his delegation had already replied to the false accusations against his country made by the Israel representative at the 1076th meeting, but would have to speak again, since that representative, whose country was occupying the territory of three Member States, had not hesitated to repeat those allegations, including the charge that the United Arab Republic had imposed a naval blockade in May 1967. He repeated that the United Arab Republic had never proclaimed or exercised a naval blockade, and that statement would stand against any legal examination.

50. The reason why the representative of Israel had seen fit to make that allegation was interesting: Israel had committed premeditated, sinister aggression against his country on 5 June 1967, at the very time that the Security Council was considering the situation in the Middle East. On 5 June 1967, in the Security Council (1347th meeting), before the planners of that aggression had had time to go back to the records concerning the definition of aggression and find a suitable pretext, they had not spoken about naval blockade but rather had fabricated a story to the effect that Egyptian armoured columns had moved in an offensive thrust against Israel's borders, while at the same time Egyptian planes had taken off from airfields in Sinai and had struck out towards Israel, and Egyptian artillery in the Gaza Strip had shelled Israel villages. Nothing more had been heard of that story, because the entire world knew that Israel had started the conflict on 5 June 1967. In May 1967 the Secretary-General had gone to Cairo on a mission of peace at the direction of the Security Council to seek a solution to the Middle Eastern crisis, which had been started by the armed threats of Israel against Syria. Those threats followed a number of acts of aggression, including air attacks against Syria, and they were all reported to the Security Council. In paragraph 9 of his report to the Security Council, the Secretary-General had stated that President Nasser and Foreign Minister Riad had assured him that the United Arab Republic would not initiate offensive action against Israel.[9] His country had also assured other countries that it would never start offensive action against Israel. As the story fabricated on 5 June 1967 by the Israel representative had become unconvincing, Israel had gone back to the records to find a pretext for its aggression and had raised the issue of naval blockade, but his country had never proclaimed or exercised a naval blockade.

51. The purpose of Israel's aggression had in fact been territorial expansion. The Prime Minister of Israel had repeatedly spoken of a Greater Israel and of annexing territory. The Israel Defence Minister made no bones about that. On 17 October 1968 he had said that Israel must settle the Golan Heights, fortify the Sinai Peninsula, and incorporate the West Bank in Israel economically and administratively. Earlier, on 5 July 1968, in a speech in the occupied territories, he had told his listeners that their fathers had reached the frontiers recognized in the partition plan of 1947, their generation had reached the 1949 frontiers, but the six-day generation, i.e., those who had unleashed the aggression of 5 June had been able to reach Suez, Jordan and the Golan Heights in Syria, and he had added that that was not the end, for after the present ceasefire lines there would be new lines which would extend beyond the Jordan river, maybe to Lebanon and perhaps to central Syria as well. That was the real purpose of the Israel aggression, as indicated by the fact of Israel's occupation of Arab territories and its commission of every crime committed earlier by Nazi Germany.

52. In a resolution of 7 May 1968, the International Conference on Human Rights at Teheran had drawn the attention of the Government of Israel to the grave consequences resulting from disregard of fundamental freedoms and human rights in occupied territories, had called on that Government to desist forthwith from acts of destroying homes of Arab civilian population, and had affirmed the inalienable rights of all inhabitants who had left their homes as a result of the outbreak of hostilities in the Middle East to return, resume normal life, recover their property and homes, and rejoin their families.[10] Yet some 350,000 Arab refugees were still living in tents on the east bank of the Jordan river in the cold winter and had not been allowed to return to their homes, even to the empty refugee camps, despite appeals to Israel and despite Security Council and General Assembly resolutions.

53. He had referred at the 1076th meeting to his country's position on the United Nations Emergency

[9] See Official Records of the Security Council, Twenty-second Year, Supplement for April, May and June 1967, document S/7906, para. 9.

[10] See Final Act of the International Conference on Human Rights (United Nations publication, Sales No.: E.68.XIV.2), chapter III, resolution 1, p. 5.

Force, and had made it clear that his country had accepted the stationing of that Force on its territory in the exercise of its sovereign will, and had requested its removal in the exercise of the same sovereign will. The Israel representative had failed to answer the questions put to him at that meeting, namely, why Israel had refused to accept the stationing of the Force on its side of the frontier in 1956, and why had it refused to permit the stationing of the Force on both sides in 1967.

54. The most interesting part of the Israel representative's statement, however, had been his attempt to deceive members into believing that Israel wanted to implement Security Council resolution 242 (1967) of 22 November 1967. In that connexion, he recalled the Israel representative's statement at the 1618th plenary meeting of the General Assembly, acknowledging that that resolution had charted a course which could lead to a just and lasting peace, and asserting that statements which had been made by spokesmen for the different Arab Governments since that resolution was adopted had not given any indication that those Governments were prepared to pay heed to the exhortation of the Security Council. Yet the Israel representative knew full well that the United Arab Republic had informed the Secretary-General that it accepted that resolution and was willing to implement every obligation arising from it. On the other hand, the Secretary-General had been unable to obtain from Israel any statement that it was willing to implement that resolution. Nor had Israel stated that it was willing to withdraw its forces from Arab territories, although the resolution had specifically emphasized the inadmissibility of the acquisition of territory by war. Semantic manœuvres such as those of the Israel representative could not deceive intelligent people.

55. The Israel representative had spoken of negotiations; yet Israel had insisted that its annexation of Jerusalem was not negotiable. Thus, the Secretary-General had noted in his annual report on the work of the Oeganization (A/7201) that the Israel authorities had stated unequivocally that the process of integration was irreversible and not negotiable. The Arab countries had negotiated with Israel in 1949, and as a result four General Armistice Agreements had been signed by Israel and the Arab States. Those Agreements—in the words of the Prime Minister of Israel—were "dead and buried", having been unilaterally denounced by Israel. He asked once again whether the Israel representative could state that his country was prepared to honour its contractual obligations. The Arab States and Israel had also signed the Protocol of Lausanne; [11] which had been supposed to solve the question of the Palestine refugees, but a few weeks later Israel had denounced its signature.

56. The Israel concept of "self-defence" through invasion, military occupation, the expulsion of 350,000 people from their homes, the plunder of private and public property, the annexation of the holy city of Jerusalem, and the commission of every known violation of human rights inevitably brought to mind Nazi Germany's concept of self-defence as entitling it to impose its will on other countries in Europe through invasion and occupation. That concept must be rejected by the Committee.

57. Mr. NACHABEH (Syria), speaking in exercise of his right of reply, said he had tried at the 1076th meeting to demonstrate the futility of the arguments adduced by the representative of Tel Aviv in defence of the war of aggression launched by Israel on 5 June 1967. He had quoted the actual words of Israel leaders indicating clearly the true objective of that war of aggression, namely, the acquisition by force of new territory for the creation of "Greater Israel" and the imposition by force of a peace settlement which would consolidate Israel's illegal occupation of Arab territory. At the present meeting, the representative of Tel Aviv had been no more convincing. The so-called "peace proposals" of the Israel Foreign Minister were nothing but a sham and a deception, as the United Arab Republic representative had clearly demonstrated.

58. Having expanded its territory by conquest at the expense of the Arab States, Israel now wished to impose by force its own kind of peace settlement in Palestine. As he had stated many times before, a just and lasting peace could not be imposed by force. It could only be achieved by recognition of the inalienable rights of the Arab people of Palestine and the restoration of those rights. It was hardly surprising that Israel wished to discourage further efforts to formulate a definition of aggression, since such a definition could only serve to condemn it formally as an aggressor.

59. To the Tel Aviv representative's argument that neither the General Assembly nor the Security Council had termed his country an aggressor, the reply was that the occupation of the territory of other States and the annexation of cities were blatant acts of aggression which in themselves branded those committing them as aggressors. The United Nations had, regrettably, been immobilized as a result of the influence and complicity of certain well-known major Powers.

60. Mr. ROSENNE (Israel), speaking in exercise of his right of reply, said that, while reluctant to discuss further in the Sixth Committee questions which properly belonged to the Security Council, he felt obliged to answer the questions put by the United Arab Republic representative. The answer to his question concerning Security Council resolution 242 (1967) was to be found in the statement made by the Foreign Minister of Israel in the General Assembly on 8 October 1968 (1686th plenary meeting). He further assured the United Arab Republic representative that the Israel Government was prepared to implement all properly negotiated agreements concluded with the United Arab Republic or any other State.

61. Mr. EL REEDY (United Arab Republic), speaking in exercise of his right of reply, said that the Israel representative was still playing with words. Such semantic manœuvres could deceive no one. The Israel representative had still not said that his Government was prepared to withdraw its forces of occupation or to implement Security Council resolution 242 (1967).

The meeting rose at 1.20 p.m.

11/ See Official Records of the General Assembly, Fourth Session, Ad Hoc Political Committee, Annex, vol. II, 1949, document A/927, annexes A and B.

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