



Chairman: Mr. Paul Bamela ENGO (Cameroon).

AGENDA ITEM 87

Report of the Special Committee on the Question of
Defining Aggression (*continued*) (A/8019)

1. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that a legal definition of aggression would make it possible to consolidate the Charter machinery for maintaining international peace and security and would constitute an additional instrument for settling international conflicts. The Soviet Union had itself been trying to work out such a definition since 1933. It had always encouraged the efforts made in that connexion within the United Nations, and on 26 February 1969 it had submitted a draft resolution¹ to the Special Committee on the Question of Defining Aggression.
2. With regard to the Special Committee's working methods, his delegation considered the establishment of a Working Group to study the various texts submitted to be an extremely useful step calculated to speed up the Special Committee's work; it also approved the recourse to the consensus method, which was the only possible method of formulating a really effective definition acceptable to all States.
3. However, his delegation thought that the efforts of the Special Committee could only be successful if a certain number of fundamental questions, on which he wished to make a number of general comments, could be settled subsequently.
4. The majority of the members of the Special Committee wanted the question of direct aggression to be dealt with first. That was a solution based on practical considerations, but his delegation wished to stress the importance it attached to the question of indirect aggression, which was of particular interest to small countries, particularly vulnerable to that form of aggression, and to countries still under colonial domination, which were frequently the victims of it. It recognized however that direct and indirect aggression did not present an absolutely identical danger to peace. He also gave a warning against too wide an interpretation of the provisions of Article 51 of the Charter of the United Nations, which might have the effect of justifying preventive wars.
5. His country had proclaimed the principle of priority as early as 1933, and it had been sanctioned by many international instruments. In his delegation's view that principle, which was based directly on the provisions of the Charter and in particular on Article 51, constituted the only objective criterion applicable to the question of aggression; it was therefore indispensable that it be included in the definition, as it was in both the Soviet Union draft (see A/8019, annex I, draft proposal A) and the thirteen-Power draft (*ibid.*, draft proposal B).
6. The political entity idea was not to be found in the Charter, and his delegation considered any attempt to introduce it into the definition of aggression to be unjustified. It could encourage a restrictive interpretation of the term "State" and blur the distinction between international conflicts and civil wars. In that connexion, it stressed once more that the definition of aggression should be based on the concept of the State in its international relations, without making the existence of the State dependent on the recognition of its statehood by other States. Moreover, the inclusion of the idea of political entities in the definition would encourage the imperialistic States to prevent the exercise of the right of peoples to decide their own future by labelling national liberation movements as aggressors and invoking the self-defence argument against them.
7. That raised the question of the legitimate use of force, in accordance with the provisions of the Charter, and his delegation pointed out the need, which it had itself observed in paragraph 6 of its draft, to exclude from the definition of aggression any use of armed force by dependent peoples exercising their inherent right of self-determination in accordance with General Assembly resolution 1514 (XV). The right of national liberation movements to resort to force had in fact been recognized by the General Assembly in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV)). His delegation considered, however, that it would be unwise to go beyond the provisions of the Charter and to broaden the powers of the General Assembly with regard to the use of force by the United Nations at the expense of those of the Security Council or to allow regional bodies to resort to force before a decision had been taken by the Security Council. That would in any case be incompatible with the provisions of Article 53 of the Charter.
8. The notion of aggressive intent did not appear in the Soviet Union draft. However, the USSR's position in that connexion was not rigid, although it considered that aggression was always premeditated and therefore involved the responsibility of the person committing it. His delegation hoped that technical progress, especially in the military sphere, would in the future make it more difficult for the

¹ See *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 20*, para. 9.

aggressor to conceal his intentions—which should facilitate the task of the Security Council. However, the latter should in each individual case take account of all the circumstances and not merely the element of intent.

9. His delegation was not opposed to the idea of establishing a list of acts which constituted aggression, and in that connexion it noted that agreement had already been reached on a number of acts which could be included in such a list.

10. The Special Committee should define precisely the legal consequences of aggression, particularly with regard to the non-recognition of territory acquired by force. The principle of inadmissibility of the military occupation of a territory or conquest by force had already been recognized in several international instruments, and recently in the Declaration on Friendly Relations; the principle of responsibility of the perpetrator of aggression was also undisputed. The six-Power draft (*ibid.*, draft proposal C) did not, however, contain any provision in those respects, and in the view of his delegation that was an unfortunate omission.

11. The best way of achieving constructive results would be to try to reconcile the views of the sponsors of the three drafts submitted to the Special Committee. It should be easy to find a compromise between the Soviet Union draft and that of the thirteen Powers; it would be more difficult, however, to find a compromise between those two drafts and the six-Power draft, whose sponsors seemed less concerned with defining armed aggression in general than with establishing a distinction between different types of aggression. Their draft defined the act of aggression by referring not to an objective criterion but to a list of methods employed to commit such an act. The absence of a legally satisfactory general definition of aggression could only play into the hands of the aggressor and of militarism and impair the true interests of all peoples. The USSR would spare no effort to see such a definition materialize, in accordance with the letter and the spirit of the Charter. It therefore urged the Sixth Committee to request the General Assembly to renew the Special Committee's mandate so that it could continue its work.

12. Mr. SHARDYKO (Byelorussian Soviet Socialist Republic) said that, although the peoples of the United Nations had undertaken to save succeeding generations from the scourge of war by maintaining international peace and security, the military stockpiles of States continued to grow and acts of aggression to become more numerous. Unless steps were taken to counteract the trend and to see that both the spirit and the letter of the Charter were respected, the very future of mankind would be in jeopardy. It was therefore urgent to make the perpetration of acts of aggression increasingly difficult, if not impossible. Since 1933 the socialist countries, and in particular the Soviet Union, had recognized that need and had tried to formulate a definition of aggression capable of achieving it. But their efforts had always come up against the stone wall of the Western Powers, whose attitude his delegation felt was contrary to the interests of the international community and obstructed the mission of the United Nations. By defining the acts which constituted aggression and spelling out their legal consequences, a definition of

aggression would help to encourage the rule of law in international relations, would assist the competent organs of the United Nations, and in particular the Security Council, in establishing the existence of acts of aggression, and would consequently make it easier to adopt collective measures to restore peace.

13. The Byelorussian delegation welcomed the progress achieved by the Special Committee on the Question of Defining Aggression and the interest shown in its work by Member States, including the Western Powers. Agreement had already been reached on certain questions and, if States showed the necessary determination and spirit of conciliation, the remaining difficulties could soon be overcome.

14. The Soviet Union draft conformed to the basic provisions of the Charter and to the norms of contemporary international law. Of the three drafts submitted to the Special Committee the Soviet Union draft put forward the clearest criteria, so that it constituted the best starting point for the formulation of a legally satisfactory definition of aggression. The Soviet Union draft was relatively close to the thirteen-Power proposal; on the other hand, it departed considerably from the six-Power text which might seriously endanger the success of the efforts made. The general definition set forth in paragraph 1 of the Soviet Union text was in line both with the realities of modern international life and with modern international law but the corresponding provision of the six-Power draft used aggression as a simple term, the employment of which, in any given case, would depend on the Security Council, a procedure which was contrary to the terms of the Charter. Furthermore, the list of acts of aggression included in the Soviet Union text was not limitative and did not prejudice the powers of the Security Council, which were mentioned in paragraph 3. The Soviet Union provisions were, moreover, in conformity with the conclusions reached on those questions by the Working Group of the Special Committee and fully respected the objectives laid down by the Charter.

15. His delegation agreed with those who thought that the definition should be limited, at least for the moment, to the idea of armed aggression, as it appeared in the Charter, that form of aggression being by far the most dangerous. It also felt that the Soviet Union draft and the thirteen-Power draft correctly assimilated the declaration of war to an act of aggression. Finally, in accordance with the wish of the majority of members of the Special Committee, the definition should include the principle of first use which was often invoked in the Soviet Union text.

16. The Charter recognized the right of self-defence and that must also be incorporated in the definition in order, *inter alia*, to affirm the legitimate character of the use of force by members of national liberation movements. In that respect, paragraph 3 of the six-Power draft did not appear to be sufficiently explicit; a provision along the lines of the Soviet Union proposal seemed essential if the definition was to reflect not only the spirit of the Charter but also the provisions of the various international instruments, including the Declaration on Friendly Relations.

17. It was also necessary to make clear the illegal consequences of aggression and, following the example of the Soviet Union and thirteen-Power drafts, proclaim the

principle of the inadmissibility of the acquisition of territory as a result of the use of force and the principle of the penal responsibility of the aggressor, the existence of which had been admitted for some time.

18. The elaboration of a definition of aggression would give the international community an additional weapon to fight against war.

19. Mr. KOSTOV (Bulgaria) stressed that his country had always favoured the elaboration of a definition of aggression. He welcomed the results achieved by the Special Committee during its last session which augured well for the future. The work undertaken by the Special Committee assumed particular importance with reference to the acts of aggression now being witnessed, particularly in the Middle East and in South-east Asia. Of course, a definition would not be enough to bring a peaceful order to the world but its legal and political value would be unquestioned, if it was conceived within the framework of a system designed to strengthen international security. In that respect, he recalled the draft resolution submitted to the First Committee by eight socialist countries, including Bulgaria, and designed to accelerate the attainment of an agreement on a definition of aggression and on United Nations peace-keeping operations, on the basis of strict compliance with the Charter (A/C.1/L.513). The recent adoption of the Declaration on Friendly Relations must encourage the Special Committee, whose work would to some extent supplement one of the principles thus proclaimed, namely, the principle of the prohibition of the use of force.

20. While regretting that the Special Committee had not had time to finish its work, he was glad that its members had succeeded in clarifying the field of application of the concept of armed aggression; that a considerable narrowing of views had been achieved on certain of the principles to be included in the definition, particularly that of first use; that the discussion in the Special Committee had brought out more clearly the divergencies between the various countries and the solutions favoured by the majority of its members, thus holding out the hope of a compromise agreement; that the Working Group, on the establishment of which the Bulgarian delegation maintained its reservations, had nevertheless accomplished positive work; and finally, that the session had taken place in an atmosphere of work and co-operation.

21. Having thus noted the positive aspects of the Special Committee's work, he wished to consider certain specific points.

22. In the first place, it was essential to maintain the powers of the Security Council in the maintenance of international peace and security. The efforts aimed at a definition of aggression originated in the Charter itself and there could be no question of changing anything in the functions of the Security Council but only of facilitating its work when it was called upon to deal with an act of aggression. That did not mean that the definition should have a purely semantic function, as in paragraph I of the six-Power proposal, which his delegation felt was much too restrictive.

23. His delegation favoured a definition confined to armed aggression. However, armed aggression could assume two

forms, direct or indirect, and it was difficult to find a precise criterion for affirming whether a case of indirect aggression was or was not armed aggression under the terms of Article 51 of the Charter. It seemed therefore wise to concentrate first on the definition of direct armed aggression and to postpone until later study of the definition of indirect aggression. In that respect, he welcomed the decision by the Soviet delegation to take out temporarily from its draft the words "direct or indirect".²

24. The question of political entities other than States did not arise in the Charter. Only States could commit acts of aggression. Apparently, by mentioning such political entities, the sponsors of the six-Power draft had wished to raise the problem of the recognition of States. However important that problem was, it had nothing to do with the definition of aggression and it would be inappropriate to abandon the framework of the Charter and to have recourse to concepts which would only cause confusion.

25. He noted with satisfaction the general agreement which had emerged on the principle of first use. He shared the opinion expressed by the great majority of other delegations to the effect that the objective nature of that criterion and its strict conformity with the Charter gave to it an essential role in the definition of aggression. Some representatives had pointed out that the application of such a criterion might include as acts of aggression acts committed by accident or by mistake. Such apprehensions were unjustified. Moreover, the Security Council would not apply the definition of aggression automatically. It was clear from the three draft proposals that cognizance must be taken on an act of aggression with due account for the circumstances of each case. His delegation felt that such circumstances should include the question of intention which must be distinguished from the question of motive.

26. As to the question of the organs empowered to use force, his delegation, believing that the definition of aggression must conform strictly to the Charter, could not support formulas designed to give the General Assembly or regional organizations powers which were not granted to them by the Charter. Articles 39 and 42 of the Charter were quite clear; only the Security Council could decide to resort to enforcement measures involving the use of force.

27. Like most other delegations, his delegation thought that the definition of aggression should contain provisions relating to cases where the use of force was legitimate and to the legal consequences of aggression. From that point of view, the Soviet Union draft, which his delegation supported, offered the best solution.

28. He hoped that the Sixth Committee would adopt a draft resolution inviting the Special Committee to resume its work as early as possible in 1971.

29. Mr. BILOA-TANG (Cameroon) said he thought that a definition of aggression would make it possible to draw up a non-limitative list of acts constituting aggression, to put an end to the current uncertainty, to dissuade possible aggressors and to guide the Security Council in the task of maintaining peace. It would, of course, be desirable that

² See A/AC.134/SR.61.

when formulated the definition should be adopted unanimously, but if general agreement could not be reached, it should be supported by at least the great majority of Member States.

30. Aggression would have been defined long before, had it not been for the division of the world among the principle ideological currents and the regrettable priority granted to national interests, to the detriment of the interests of the international community. Some had contended that the General Assembly did not create law and that its declarations, particularly in the case of the definition of aggression, were not legally valid unless they were exact. He wondered, however, who would determine the exactitude of the declarations made by the General Assembly when it defined the law? Similarly, mention had been made of the discretionary power of the Security Council with regard to collective security. There was no doubt that the future definition of aggression should respect that power, in accordance with the Charter. His delegation nevertheless felt that the Security Council should use that power only with the greatest discernment, for experience had shown that the use of the right of veto had not always been based on the exactitude and legal regularity of the opposing positions.

31. His delegation felt that the scope of application of any definition of aggression should be limited to States; and that armed aggression, whether direct or indirect, should be considered only a first stage, in view of the different forms aggression could take.

32. The considerable difficulties encountered thus far in the efforts to formulate a definition of aggression were such as to lead one to question, if not the need for such definition, at least its absolute urgency. In that connexion, he noted that since the concepts of sovereignty and self-determination had already been dealt with in the Declaration on Friendly Relations, it might be wondered whether the principles examined by the Special Committee really constituted new elements. He also observed that financial considerations had been somewhat overlooked, although they had been forcefully evoked in the discussion of other very important matters, such as the Second Development Decade of the United Nations.

33. For all those reasons, and given the evolution of the Special Committee's work, his delegation considered that that Committee's mandate should not be renewed unless it was assigned a specific task, namely, to submit to the next session of the General Assembly conclusions recommending a compromise between the various tendencies which would serve as a basis for a generally accepted definition of aggression.

34. Mr. KHAN (India) said that the Special Committee's work involved great difficulties, which were reflected in the points of disagreement between the three draft proposals and were not resolved in the Working Group's report (see A/8019, annex II). On the other hand, he saw grounds for hope in the fact that the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States had in 1970 completed its task, which had much in common with that of the Special Committee on the Question of Defining Aggression. The

definition which the latter was called upon to formulate would serve several purposes: it would dissuade States from using force, it would assist the international community in fixing responsibility for aggression, it would guide the Security Council in its task of maintaining peace and security, and would assist the General Assembly in assessing international situations. His delegation considered that the importance of those objectives justified inviting the Special Committee to resume its work as early as possible in 1971.

35. His delegation noted with satisfaction that almost all delegations shared the same approach to the question of defining aggression. It was generally agreed that that definition should be based on the prohibition of the threat or use of force contained in Article 2 (4) of the Charter, that it should be drafted in general terms, that it should indicate the elements constituting an act of aggression, while specifying that the competent United Nations organs would be free to determine whether other acts not enumerated in the definition did or did not constitute aggression in a specific case, and that it should take into account the legitimate use of force in the cases of self-defence, the use of force by regional institutions and the use of force in upholding the right of self-determination. However, there were still a number of points of disagreement on which he wished to indicate his delegation's position.

36. His delegation upheld the principles of priority and proportionality and considered that they should be included in any definition of aggression.

37. With regard to the question of indirect aggression, which raised the problem of the scope of application of the concept of aggression itself, his delegation considered that organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State, constituted aggressive acts, as was recognized in the Declaration on Friendly Relations. The same was true of organizing or encouraging acts of civil strife or terrorist acts in the territory of another State.

38. His delegation considered that the concept of the inviolability of the territory of a State should be emphasized in the definition of aggression, which should also provide that the territory of a State could not be the object of military occupation or acquisition, and that no territorial gains acquired by force should be recognized.

39. His delegation considered that the motive for the use of force and the intention with which a State used force were subjective elements and should be avoided. In its view, aggression should be defined as objectively as possible. Only when a State which had used force was called upon to justify its act could intent be taken into account.

40. Mr. OTSUKA (Japan) said that the actual stage reached in the work of the Special Committee warranted neither optimism nor pessimism; it simply emphasized the need for the Special Committee to proceed with its work in a concrete and objective manner.

41. Having said that, he wished to point out first of all that it was essential to safeguard the discretionary power of

the Security Council to decide whether an act of aggression had been committed under Article 39 of the Charter, and he was glad to note that the members of the Special Committee had reached a measure of agreement on that point although their views differed on the extent to which the Security Council should be free in the application of the definition. His delegation saw two reasons for insisting that the discretionary power of the Security Council should be preserved. First, the Charter conferred primary responsibility for the maintenance of international peace and security on the Security Council. The Security Council was to determine the existence of any threat to the peace, breach of the peace or act of aggression and, where appropriate, make recommendations or decide what measures should be taken in accordance with Articles 41 and 42 of the Charter. That machinery should be preserved. Secondly, certain practical considerations should be taken into account. It was not possible to draw up a definition which would be exhaustive, covering all acts of aggression. On the other hand, an act which had all the characteristics of aggression might in fact be a simple act of self-defence. As the reality of international relations was complex, the question whether an act of aggression had actually been committed should therefore be considered by the Security Council in the light of all the circumstances of each particular case. By insisting on preserving the discretionary power of the Security Council, he was not suggesting that the attempt to define aggression should be a mere intellectual exercise; on the contrary a definition acceptable to all the member States would certainly provide powerful guidance for the Council in discharging its responsibility. It should be borne in mind that the forcefulness of a document did not depend on how it was worded, but on the extent to which it was accepted. In that connexion, it was to be hoped that the Special Committee would pursue its work on the basis of consensus so that the final outcome would command the unanimous and enthusiastic support of all Member States.

42. While his delegation recognized the importance of the principle of "first use", it could not subscribe to the view that it should be an automatic and determinative factor in the definition. In many cases, a strictly automatic application of that rule would lead to surprising results. Furthermore, while it could be said that the first use of force was an objective "fact", it was none the less often difficult to establish such a "fact". The essential role of the Security Council was to determine not which party had first used force in a purely physical sense, but which of the parties had committed an act of aggression. The principle of "first use" should be reflected in the definition of aggression, but only as one of the elements to be taken into account.

43. Aggressive intent was another important criterion. An act committed by accident or in error, for example, did not constitute aggression. Moreover, it was difficult to distinguish between the use of force in self-defence and an act of aggression on the basis of the physical characteristics only. Consequently, the factor of aggressive intent should also have its proper place in formulating a definition of aggression.

44. His delegation held a firm view that any adequate definition of aggression should not fail to cover certain acts which are usually referred to as indirect aggression. The

inclusion of such acts in the definition would in no way constitute a departure from the Charter or affect the scope of the right of self-defence. To agree on a partial definition covering only so-called direct aggression would be a disservice to the objective sought.

45. He said that the Special Committee should continue to concentrate its attentions on the definition of aggression and not complicate its task by attempting to define the right of self-defence or any other use of force in conformity with the Charter.

46. Mr. ARYUBI (Afghanistan) said that the task of defining aggression was difficult but not impossible, as indicated by the encouraging progress made by the Special Committee and reflected in its report.

47. With regard to the three draft proposals before the Committee, he said that he agreed with the view that owing to the difficulties involved in defining indirect aggression, the Special Committee should first endeavour to define armed aggression. Once that definition had been adopted, it would go on to other forms of aggression such as economic aggression, financial aggression and political aggression, which were equally dangerous. Countries had often resorted to economic blockade and, apart from the blockades authorized by the Security Council, that practical form of aggression was of serious concern to his delegation.

48. The definition of aggression should be based on objective, not subjective criteria and the basic criterion for determining who was the aggressor should be that of the "first use" of force. The purpose of applying the principle of priority was also to prevent States from committing acts of aggression on the pretext that they were embarking on so-called preventive wars.

49. The definition should also lay down precise and irrefutable criteria which would make it possible to distinguish aggression from the legitimate use of force. Under the Charter, the only exceptions to the prohibition against the use of force were individual or collective self-defence and participation in enforcement measures taken by the competent organs of the United Nations. Where there was any doubt, Article 103 of the Charter should be invoked; it provided that in the event of a conflict between the obligations of the Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter would prevail.

50. In any definition of aggression, there should be a clause recognizing the legitimate right of dependent peoples to use force in the exercise of their right to self-determination in accordance with the Charter and the purposes of the United Nations, and with the Declaration on the Granting of Independence to Colonial Countries and Peoples and the programme of action to assist in the full implementation of that Declaration, adopted at the commemorative session of the General Assembly (resolution 2621 (XXV)). As was rightly pointed out in the Special Committee, that right of dependent peoples stemmed directly from the concept of self-defence stated in Article 51 of the Charter. Independent States should also be authorized to grant assistance to all peoples engaged in a struggle against foreign ruling

Powers to safeguard their inalienable right to self-determination. Similarly, cases where a dependent people attacked the foreign ruling Power from a territory other than its own under the leadership of a provisional government in exile should constitute an exception in any definition of acts of aggression. It should, however, be noted that any measures taken in pursuance of Article 51 should immediately be brought to the attention of the Security Council and the exercise of the right of self-defence should cease when the Security Council had taken the necessary measures to maintain international peace and security.

51. With regard to the legitimate use of force by regional organizations, he pointed out that paragraph III of the six-Power draft proposal, which placed the regional organizations on the same footing as the organs of the United Nations, contravened Article 53 of the Charter. Article 53 stated that no enforcement action should be taken by regional organizations without the authorization of the Security Council, with the exception of measures of self-defence against “any enemy State”. He supported the view that paragraph 4 of the thirteen-Power draft and paragraph III of the six-Power draft should be reworded in order to bring them into line with the provisions of Article 53. In his view, enforcement action did not necessarily involve the use of armed force; it consisted basically of the application of sanctions, which might be diplomatic, economic and financial or military in nature.

52. Turning to the legal consequences of aggression, he expressed full support for the Soviet Union draft proposal, which was detailed and precise. In the view of his delegation, the inclusion in the definition of aggression of the political entity notion and the subjective element of aggressive intent would merely confuse the issue and would depart from the Charter, which made no mention of political entities. The Special Committee should confine the scope of its work to sovereign States, which alone were subject to public international law.

53. His delegation supported the recommendation that the General Assembly should request the Special Committee to resume its work as soon as possible in 1971.

54. Mr. DERMIZAKY (Bolivia) said that the task entrusted to the Special Committee on the Question of Defining Aggression was particularly arduous in that the notion of aggression brought into play political concepts and the most varied interests, and the hard facts of aggression threatened the entire human race, with its burden of over-population, injustice and violence. Bolivia had taken a position on the question from the very beginnings of the United Nations. At the San Francisco Conference in 1945 it had proposed that the Charter of the United Nations should include³ a definition of aggression under which the permanent members of the Security Council would have safeguarded the political independence of States and the right of peoples to self-determination. The proposed definition had listed the acts which constituted aggression and had provided for immediate collective sanctions to be imposed against the aggressor. Subsequently, at the sixth session of the General Assembly, his

delegation had submitted another draft resolution⁴ which had defined as an act of aggression any threat or use of force against the territorial integrity or political independence of any State, or any threat or use of force which is in any other way incompatible with the purposes of the United Nations, including unilateral action to deprive a State of the economic resources derived from the fair practice of international trade, or to endanger its basic economy, thus jeopardizing the security of that State or rendering it incapable of acting in its own defence and co-operating in the collective defence of peace.

55. The Special Committee’s report showed that progress had been accomplished in that direction, since the desirability of a definition of aggression did not appear to be doubted in any quarter. It should be recognized, however, that in the present state of international relations it was unlikely that such a definition could be adopted by consensus which would obviously be the ideal procedure, considering the importance of the question. Hence in a spirit of realism an effort should at least be made to formulate a definition acceptable to the majority of Member States.

56. His delegation had stated more than once that the definition should not be confined to armed attack but should also take account of certain forms of interference in economic, political and cultural matters. It should therefore cover both direct and indirect aggression, since the latter could have effects just as disastrous as the former. Aggressive intent was clearly a constituent element of aggression, but it was perhaps unwise to mention it in the definition, because it would imply introducing a subjective element difficult to assess. Aggression should be judged objectively on the basis of its form and scope. That would not preclude a separate category for acts resulting from accident or error, which did not, of course, constitute aggression. On the other hand, a declaration of war was intrinsically an act of aggression, even though aggression could occur without a prior declaration, as had often happened. A reference to the use of weapons of mass destruction should be made only for information; they represented a way of committing aggression, not a constituent element of it.

57. His delegation believed that any definition would be incomplete if it did not mention the responsibility of the aggressor. It was impossible to define aggression without reference either to international public action to put an end to it or to liability for the damage caused. Bolivia held firmly to the principle of the non-recognition of territory acquired by force. No aggression justified the occupation or seizure of the territory of the State attacked. As the representative of Iraq had said (1202nd meeting), the definition should confirm that the acquisition of territory, or advantages of any kind obtained as a result of aggression were not recognized.

58. His delegation supported the Special Committee’s recommendation that the General Assembly should authorize it to resume its work as early as possible in 1971.

³ See *Documents of the United Nations Conference on International Organization*, Doc. 2, G/14(r).

⁴ See *Official Records of the General Assembly, Sixth Session, Annexes*, agenda item 49, document A/C.6/L.211, para. 3.

59. Mrs. SLÁMOVÁ (Czechoslovakia) said that, as was stated in paragraph 10 of the draft Declaration on the strengthening of international security submitted by the socialist countries to the First Committee (A/C.1/L.513), a definition of aggression was essential to achieve the purposes set forth in Article 1 of the Charter. The draft Declaration submitted by the non-aligned countries (A/C.1/L.518) contained a similar provision.

60. A definition of aggression would provide a legal basis for any attempt that might be made to define State responsibility, would facilitate the task of the Security Council and would shed light on the provisions of Chapter VII of the Charter. Taken in conjunction with the Declaration on Friendly Relations, a definition of aggression would provide a solid legal basis for international security.

61. Any definition of aggression should be anchored in the principles set forth in the Charter, and should be drafted with great legal precision. In that connexion, the lack of precision of the definition contained in the six-Power draft seemed highly dangerous. Her delegation believed that it would be wise to begin by defining direct armed aggression.

62. The members of the Special Committee were in agreement that the principle of prior use of force should be included in the definition. It did enable the aggressor to be identified. However, it was not the only criterion, and other factors, such as whether or not the use of force was lawful should also be taken into account. In her delegation's view resort to force was just as lawful when a State was exercising its right of self-defence as when a people was fighting to vindicate its right of self-determination. Both those points were set out clearly in the Soviet draft and in the thirteen-Power draft. The six-Power draft, on the other hand, would legalize the use of force in pursuance of decisions taken by regional organizations, and was at variance with Article 53 of the Charter.

63. Responsibility was an essential element of the definition of aggression; it was mentioned in the Soviet Union draft and in the thirteen-Power draft but not in the six-Power draft. Since aggression was a crime against the peace, it was natural that aggressor States should incur material and political liability. Like the USSR, the Czech delegation even believed that the term criminal liability should be used and that it should be stated that anyone guilty of an international crime should answer for his actions, even where domestic law did not lay down any penalty for an international crime. Czechoslovakia supported the definition proposed by the Soviet Union, which seemed to meet the needs of the international community, to contain all the ideas that should be included in a definition of aggression, and to be based on the principles of the Charter.

64. Her delegation hoped that the Special Committee's mandate would be extended and thought it would succeed in submitting a draft that would find unanimous acceptance.

65. Mr. ALVAREZ TABIO (Cuba) said that his delegation had no objection to a combined definition in which a general and objective description of armed aggression would

be accompanied by a list, for information only, of typical acts of aggression. The definition should also cover indirect aggression, which was the form of aggression most often practised by imperialists against small countries, but care should be taken not to use ambiguous or imprecise wording which might be deliberately misconstrued.

66. With regard to the definition of armed aggression, it was essential to specify clearly the scope of self-defence so as to prevent it from being used as an argument to conceal acts of flagrant aggression or reprisals.

67. A definition of aggression should not limit the discretionary powers vested in the Security Council under Article 39 of the Charter. Nevertheless, there was nothing to prevent the General Assembly from formulating a definition which would serve the supreme organ of the Organization as a guide, so that its decisions would rest on objective criteria accepted by the international community.

68. The Cuban delegation was against having the definition refer to political entities other than States. The fact that certain Governments refused to recognize certain sovereign States in no way affected the legal status of the latter, since recognition was not a constituent element of statehood. Moreover, reference to that concept would be tantamount to the surreptitious introduction of an indirect denial of the principle of universality and to the legitimization of a situation incompatible with the purposes of the Organization.

69. With regard to the legitimate use of force, consideration should first be given to coercive measures taken in the form of sanctions. In that connexion, no State or group of States could invoke high-sounding motives in order to arrogate to themselves a monopoly over international policing. Only the organ duly authorized by the States which constituted the international legal community was entitled to take the coercive measures applicable in a given situation. In other words, only the Security Council was competent to determine the existence of facts, acts or situations which constituted a threat to peace, a breach of the peace or an act of aggression, and was thus the sole international organ which could legitimately resort to force. Accordingly, the Cuban delegation was unable to accept a definition which lent legitimacy to a resort to force decided upon under regional agreements or by regional organizations. There could be no doubt that Article 53 of the Charter authorized the Security Council to use regional arrangements or agencies where necessary, but no regional enforcement action could be taken without the Security Council's prior authorization. The phrase "consistent with the Charter of the United Nations" in paragraph III of the six-Power draft did not suffice to remove the ambiguity introduced into the interpretation of Article 53 of the Charter. That phrase tended, rather, to open the door to the line of argument which would authorize the Organization of American States to by-pass the Security Council in the case of any act or situation that might endanger peace on the continent. It was not admissible for a regional agreement to contain provisions incompatible with the Charter, nor could it be argued that an agreement of that kind was binding on a State which was not, or no longer, a party to it.

70. Another case of the legitimate use of force was that of self-defence. In that connexion, his delegation wished to

point out that under Article 51 of the Charter the right of self-defence was confined to action taken after an armed attack. The Charter made no reference to direct or indirect aggression, to threats of aggression or to acts or situations which endangered peace. Whatever scope might be given to the concept of aggression, it could not be regarded simply as the opposite of self-defence. It therefore seemed inadvisable to refer in the definition to the principle of proportionality, which might have the effect of obscuring the very clear meaning of Article 51 of the Charter.

71. The peoples under the colonial yoke had the right to resort to force in order to win their independence. In that connexion, his delegation supported the wording of paragraph 6 of the USSR draft. It also subscribed to paragraphs 4 and 5 of that draft, which set out in specific terms the responsibility incurred for acts of aggression. As far as aggressive intent was concerned, he pointed out that any crime implied a link between the intention and the act committed. According to paragraph IV, section A, of the six-Power draft, certain objectives had to be pursued for the use of force by one State against another to constitute aggression. In other words, those objectives were introduced as subjective elements of the unlawful act, which meant that the Security Council would be debarred from passing judgement on the basis of acts alone. Any aggression perpetrated by one of the means listed in paragraph IV, section B, would not be regarded as unlawful unless it had been motivated by one of the reasons listed in paragraph IV, section A. It would be the intention that would give the line of conduct its legal status; in other words, the absence of the motives listed in paragraph IV, section A, could provide an excuse for typically aggressive behaviour. That line of argument was unacceptable.

72. Mr. RAKOTOSON (Madagascar) considered that the definition of aggression should be based first and foremost on the Charter, and therefore should be limited to armed aggression between States and should respect the discretionary power of the Security Council with regard to the use of force. For the sake of clarity, his delegation was willing to consider the possibility of a reference to political entities other than States.

73. The definition would provide the Security Council with a criterion for determining the existence of an act of aggression. In that connexion, his delegation, which was a

co-sponsor of the thirteen-Power draft, felt that the general definition of aggression should be accompanied by a list of indisputably serious acts of aggression and that the list should be binding on the Security Council.

74. In evaluating an act of aggression, priority was an important but not a determining criterion. The Security Council should consider the extent to which the first resort to force constituted an unlawful act of aggression. Priority was linked with proportionality. Force should be used in exceptional circumstances only, and defence, if it was to qualify as self-defence, must be proportionate to the violence suffered.

75. The right to invoke self-defence should be limited to two cases, that of armed aggression between States and that of the exercise of the right of self-determination under General Assembly resolution 1514 (XV). Nevertheless, the definition should also take into account the situation created by armed bands organized by one State in the territory of another, and it might be asked whether in some cases acts of that kind did not come into the same category as armed attack.

76. His delegation held that any definition of aggression should be confined to objective criteria and should not introduce an element of intent, which was always difficult to assess. With regard to sanctions, every potential aggressor should be made aware of the consequences of his act and informed, on the one hand, that territorial gains obtained by force were not recognized and, on the other hand, that acts of aggression entailed political and material responsibility.

77. Stressing the primary responsibility of the Security Council for the maintenance of peace, he suggested that in order to give the definition practical value it should be submitted to the permanent members of the Council for approval.

78. His delegation hoped that the Special Committee would resume its work as early as possible in 1971 and that it would quickly succeed in preparing a definition of aggression which would be acceptable to the majority of Member States.

The meeting rose at 6.15 p.m.