

GENERAL ASSEMBLY

**OFFICIAL RECORDS
TWENTY-THIRD SESSION**

Agenda item 86

**REPORT
OF THE SPECIAL COMMITTEE
ON THE QUESTION
OF DEFINING AGGRESSION**



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UNITED NATIONS

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. INTRODUCTION

1. On the recommendation of the Sixth Committee,^{1/} the General Assembly, at its 1638th plenary meeting held on 18 December 1967, adopted resolution 2330 (XXII) entitled "Need to expedite the drafting of a definition of aggression in the light of the present international situation", which reads as follows:

"The General Assembly,

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

"Considering that one of the main purposes of the United Nations is to maintain international peace and security and, to that end, to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace,

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

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

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

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

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

"3. Instructs the Special Committee, having regard to the present resolution and the international legal instruments relating to the

^{1/} Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 95, document A/6988, para. 21.

matter and the relevant precedents, methods, practices and criteria and the debates in the Sixth Committee and in plenary meetings of the Assembly, to consider all aspects of the question so that an adequate definition of aggression may be prepared and to submit to the General Assembly at its twenty-third session a report which will reflect all the views expressed and the proposals made;

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

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

2. Under the terms of operative paragraph 2 of the above resolution, the President of the General Assembly, after appropriate consultations, appointed the following thirty-five Member States to serve on the Special Committee on the Question of Defining Aggression (A/7061): Algeria, Australia, Bulgaria, Canada, Colombia, Congo (Democratic Republic of), Cyprus, Czechoslovakia, Ecuador, Finland, France, Ghana, Guyana, Haiti, Indonesia, Iran, Iraq, Italy, Japan, Madagascar, Mexico, Norway, Romania, Sierra Leone, Spain, Sudan, Syria, Turkey, Uganda, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Yugoslavia. The list of representatives to the 1968 session is annexed to the present report.

3. The Special Committee on the Question of Defining Aggression met at the United Nations Office at Geneva and held twenty-four meetings from 4 June to 6 July 1968. With the exception of Haiti and Sierra Leone, all States members of the Special Committee participated in its work. At its first and second meetings, on 4 and 5 June, the Special Committee elected the following officers:

<u>Chairman:</u>	Mr. Mustafa Kamil Yasseen (Iraq)
<u>Vice-Chairmen:</u>	Mr. Milko Harizanov (Bulgaria)
	Mr. José Martínez Cobo (Ecuador)
	Mr. Francesco Capotorti (Italy)
<u>Rapporteur:</u>	Mr. George O. Lamptey (Ghana)

The session was opened on behalf of the Secretary-General by Mr. Constantin A. Stavropoulos, the Legal Counsel of the United Nations. Mr. Anatoly P. Movchan, Director of the Codification Division of the Office of Legal Affairs, served as Secretary. Mr. Pierre Raton and Mr. Eduardo Valencia-Ospina served as Deputy-Secretary and Assistant Secretary, respectively.

4. At its first meeting, the Special Committee adopted the following agenda (A/AC.134/L.1):

- "1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the question of defining aggression (General Assembly resolution 2330 (XXII)).
6. Adoption of the report."

5. The Special Committee discussed the organization of its work at the first two meetings of the session, on 4 and 5 June. It was generally agreed to hold an initial general debate, which lasted until the 11th meeting, on 18 June. A further debate on the draft definitions submitted to the Special Committee took place at the 14th to 21st meetings, from 25 June to 4 July 1968. The Special Committee devoted the last three meetings of the session, the 22nd to 24th meetings, held on 5 and 6 July 1968, to a debate on a draft resolution submitted by the Union of Soviet Socialist Republics concerning the resumption of the Special Committee's work and to the consideration and adoption of the present report.

II. PROPOSALS AND AMENDMENTS

6. The Special Committee had before it a number of draft proposals. They are reproduced in paragraphs 7 to 12 below in the order in which they were submitted.

7. At the 14th meeting, on 25 June 1968, the following draft proposal was submitted by Algeria, the Congo (Democratic Republic of), Cyprus, Ghana, Guyana, Indonesia, Madagascar, the Sudan, Syria, Uganda, the United Arab Republic and Yugoslavia (A/AC.134/L.3 and Corr.1 and 2 - French only - and Add.1):

"The 1968 Special Committee on the Question of Defining Aggression, pursuant to General Assembly resolution 2330 (XXII), recommends to the General Assembly the adoption of the following Declaration:

'Draft Declaration on Aggression

'The General Assembly,

'Believing that the maintenance of international peace and security may be enhanced by the adoption of a definition of the term "aggression" as employed in the Charter of the United Nations,

'Mindful of the responsibilities of the Security Council concerning aggression under Article 1, paragraph 1, and Chapter VII of the Charter,

'Bearing in mind also the discretionary authority of the Security Council embodied in Article 39 of the Charter in determining the existence of any threat to the peace, breach of the peace, or act of aggression,

'Considering that, although the question whether aggression has occurred must be determined in the circumstances of each particular case, it is nevertheless appropriate to formulate certain principles for the guidance of the competent organs of the United Nations,

'Convinced that the adoption of a definition of aggression would serve to discourage potential aggression,

'Reaffirming that the territory of a State is inviolable and may not be the object, even temporarily, of military occupation or of other measures of force taken by another State on any grounds whatever, and that such territorial acquisitions obtained by force shall not be recognized,

'Reaffirming as a peremptory norm of international law that only the United Nations has original competence to employ force in the fulfilment of its functions to maintain international peace and security and that therefore the use of force by one State or a group of States against another State or group of States is illegal and violates the purposes and principles of the Charter of the United Nations and contemporary international law,

'Reaffirming also that the inherent right of individual or collective self-defence can only be exercised in cases of armed attack (armed aggression) in accordance with Article 51 of the Charter,

'Declares that:

'1. Aggression is the use of force in any form by a State or group of States against the people or the territory of another State or group of States or in any way affecting the territorial integrity,

sovereignty and political independence of such other State, other than in the exercise of the inherent right of individual or collective self-defence or when undertaken by or under the authority of a competent organ of the United Nations.

'2. In accordance with the foregoing definition, and without prejudice to the declaration of other acts as forms of aggression in the future, the following shall in particular constitute acts of aggression:

(a) A declaration of war made by one State against another in violation of the Charter of the United Nations;

(b) The invasion by the armed forces of a State of the territory of another State, or the military occupation or annexation of the territory or part of it;

(c) Armed attack against the territory, territorial waters or air space of a State by the land, sea, air or space forces of another State;

(d) The blockade of the coasts or ports of a State by the armed forces of another State;

(e) Bombardment of, or the employment of ballistic missiles or any other means of destruction against the people or the territory, territorial waters or air space of a State by the land, sea, or space forces of another State.

'3. Any use of force tending to prevent a dependent people from exercising its inherent right to self-determination in accordance with General Assembly resolution 1514 (XV), is a violation of the Charter of the United Nations.

'4. No political, economic, strategic, security, social or ideological considerations, nor any other considerations, may be invoked as excuse to justify the commission of any of the above acts, and in particular the internal situation in a State or any legislative acts by it affecting international treaties may not be so invoked.'

8. At the 15th meeting, on 26 June, the following draft proposal was submitted by Colombia, Ecuador, Mexico and Uruguay (A/AC.13⁴/L.4/Rev.1 and Corr.1 - Spanish only - and Add.1):

"1. The use of force by a State or group of States against another State, other States or another group of States is illegal and violates the Purposes and Principles of the Charter of the United Nations.

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"2. In the performance of its functions to maintain international peace and security, the United Nations alone has original competence to use force in conformity with the Charter.

"3. Consequently, the prohibition on the use of force does not affect the legitimate use of force by a competent organ of the United Nations, or under its authority, or by a regional agency, or in exercise of the inherent right of individual or collective self-defence, in accordance with the Charter of the United Nations.

"4. The exercise of the right of individual or collective self-defence recognized by Article 51 of the Charter, is justified solely in the case of an armed attack (armed aggression).

"5. A State which is the victim of subversive or terroristic acts supported by another State or other States may take reasonable and adequate steps to safeguard its existence and its institutions.

"6. The use of force by regional agencies, except in the case of self-defence, shall require the express authorization of the Security Council, in accordance with Article 53 of the Charter of the United Nations.

"7. The use of force to deprive dependent peoples of the exercise of their inherent right to self-determination, in accordance with General Assembly resolution 1514 (XV) is a violation of the Charter of the United Nations.

"8. In particular, the following shall be deemed acts of direct aggressions:

(a) A declaration of war by one State against another, in violation of the Charter of the United Nations;

(b) Invasion by the armed forces of a State of the territory of another State;

(c) Armed attack against the territory of a State by the land, naval or air forces of another State;

(d) The blockade of coasts, ports or any other part of the territory of a State by the land, naval or air forces of another State;

(e) Bombardment of the territory of a State by the land, naval or air forces of another State, or by means of ballistic missiles;

(f) The use of atomic, bacteriological or chemical weapons or of any other weapon of mass destruction.

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"9. No political, economic, strategical, social or ideological consideration may be invoked to justify the acts referred to in the foregoing paragraphs.

"10. This definition shall not affect the discretionary power of competent organs of the United Nations called upon to determine the aggressor."

9. At the 20th meeting, on 3 July, the following draft proposal was submitted by Colombia, the Congo (Democratic Republic of), Cyprus, Ecuador, Ghana, Guyana, Indonesia, Iran, Mexico, Spain, Uganda, Uruguay and Yugoslavia (A/AC.134/L.6 and Add.1 and 2):

"The 1968 Special Committee on the Question of Defining Aggression, pursuant to General Assembly resolution 2330 (XXII), recommends to the General Assembly the adoption of the following Declaration:

'Draft Declaration on Aggression

'The General Assembly,

'1. Believing that the maintenance of international peace and security may be enhanced by the adoption of a definition of the term "aggression" as employed in the Charter of the United Nations,

'2. Convinced that armed attack (armed aggression) is the most serious and dangerous form of aggression and that it is proper at this stage to proceed to a definition of this form of aggression,

'3. Mindful of the responsibilities of the United Nations Organization for the maintenance of peace and security under the pertinent Articles of its Charter and the duty of all States to comply in good faith with the obligations placed on them by the Charter,

'4. Bearing in mind also the discretionary authority of the Security Council, embodied in Article 39 of the Charter, to determine the existence of any threat to the peace, breach of the peace, or act of aggression, and to decide the measures to be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security,

'5. Considering that, although the question whether aggression has occurred must be determined in the circumstances of each particular case, it is nevertheless appropriate to formulate certain principles as a guidance for such determination,

'6. Convinced that the adoption of a definition of aggression would serve to discourage potential aggression,

'7. Reaffirming the inviolability of the territorial integrity of a State,

'Declares that:

'1. For the purposes of this definition, aggression is the use of armed force, direct or indirect, by a State against the territory, including the territorial waters or air space of another State, irrespective of the effect upon the territorial integrity, sovereignty and political independence of such State, other than when undertaken by or under the authority of the Security Council or in the exercise of the inherent right of individual or collective self-defence;

'2. In the performance of its function to maintain international peace and security, only the United Nations, and primarily the Security Council, has competence to use force in conformity with the Charter, and therefore the use of armed force by one State against another State, save under the provisions of paragraph 3 below, is illegal;

'3. The inherent right of individual or collective self-defence of a State can be exercised only in case of the occurrence of armed attack (armed aggression) in accordance with Article 51 of the Charter;

'4. Enforcement action or any use of armed force by regional agencies may only be resorted to in cases where the Security Council acting under Article 53 of the Charter decides to utilize for the purpose such regional agencies;

'5. In accordance with the foregoing, the following shall in particular constitute acts of armed aggression:

- (i) Declaration of war by one State against another State in violation of the Charter;
- (ii) Any of the following acts with or without a declaration of war:
 - (a) The invasion or attack by the armed forces of a State, against the territory of another State, and any military occupation, however temporary, or any forcible annexation of the territory of another State or part thereof;
 - (b) Bombardment by the armed forces of a State of the territory of another State or the carrying out of a deliberate attack on the ships or aircraft of the latter State, or the use of weapons of mass destruction by a State against the territory of another State;
 - (c) The blockade of the coasts of ports of a State by the armed forces of another State;

'6. By virtue of the duty imposed on States by the Charter of the United Nations to settle their disputes by pacific methods and to bring their disputes to the attention of the Security Council or the General Assembly, no considerations of whatever nature, save as stipulated in paragraph 3 above, may provide an excuse for the use of force by one State against another State;

'7. Nothing in paragraph 3 above shall be construed as entitling the State exercising a right of individual or collective self-defence, in accordance with Article 51 of the Charter, to take any measures not reasonably proportionate to the armed attack against it;

'8. When a State is a victim in its own territory of subversive and/or terrorist acts by irregular, volunteer or armed bands organized by another State, it may take all reasonable and adequate steps to safeguard its existence and its institutions, without having recourse to the right of individual or collective self-defence against the other State under Article 51 of the Charter;

'9. Armed aggression as defined herein, and the acts enumerated above, shall constitute crimes against international peace, giving rise to international liability and responsibility;

'10. An act other than those enumerated in paragraph 5 above may be deemed to constitute aggression, armed or otherwise, if declared as such by the Security Council.'

10. At the 24th meeting, on 6 July, the Sudan and the United Arab Republic submitted the following amendment (A/AC.134/L.8) to the draft proposal contained in paragraph 9 above:

"1. In operative paragraph 1 delete the words 'direct or indirect'.

"2. After operative paragraph 7 add the following paragraph as operative paragraph 8:

'Any use of force tending to deprive any people of its inherent right to self-determination, sovereignty and territorial integrity, is a violation of the Charter of the United Nations.'

"3. Renumber paragraphs 8, 9, 10 accordingly."

11. At the 22nd meeting, on 5 July, the Union of Soviet Socialist Republics submitted the following draft resolution (A/AC.134/L.7):

"The 1968 Special Committee on the Question of Defining Aggression recommends that the General Assembly adopt the following draft resolution:

'The General Assembly,

'Considering that resolution 2330 (XXII) recognized the widespread conviction of the need to expedite the definition of aggression and instructed the Special Committee to consider all aspects of the question so that an adequate definition of aggression might be prepared,

'Considering that the Committee's deliberations revealed the sincere desire of the overwhelming majority of the Committee's members to complete their work by submitting to the General Assembly a report containing a definition of armed aggression (attack) unanimously approved by the Committee,

'Noting, nevertheless, that, unfortunately, there was not enough time in which to complete this important work,

'Decides:

1. That the Special Committee on the Question of Defining Aggression shall resume its work before the end of 1968 in New York or at Geneva, so that it can complete its formulation of a definition of armed aggression (attack) and submit its proposals to the twenty-third session of the General Assembly;

2. To request the Secretary-General to provide the Special Committee with the necessary facilities and services.'"

12. At the 24th meeting, on 6 July, Ghana submitted an oral amendment to the foregoing draft resolution. The text of the oral amendment, accepted by the sponsor of the draft resolution, was as follows:

"1. In the second preambular paragraph:

- (a) Insert the word 'draft' before the word 'definition';
- (b) Delete the words 'armed', '(attack)', and 'unanimously'.

"2. In the third preambular paragraph:

- (a) Delete the words ', nevertheless,', and ', unfortunately,';
- (b) After the word 'Noting' insert the words: 'the progress made by the Committee and the fact';
- (c) Substitute the word 'this' by the word 'its'.

"3. In the first operative paragraph:

- (a) Before the words 'before the end' insert the words 'as soon as possible';
- (b) Substitute the words 'formulation of a definition of armed aggression (attack) and submit its proposals' by the words 'work by submitting a report containing a generally accepted draft definition of aggression'."

III. DEBATE

A. General discussion

Introduction

13. The importance of the task entrusted to the Special Committee was stressed by most of the representatives. They pointed out that it was indeed a complex question, which had been discussed since the time of the League of Nations as early as 1923. In February 1933 the USSR submitted the first definition of aggression to the General Commission of the Disarmament Conference. This definition was later referred to as the Litvinov-Politis definition.^{2/}

14. The question was considered by the San Francisco Conference in 1945. Since then, the question of defining aggression had been considered off and on by the General Assembly itself, the Sixth Committee, and the International Law Commission, as well as by two Special Committees established in 1953 and 1956 respectively and the Special Committee established under resolution 1181 (XII), but in spite of numerous efforts no definition was approved, although the General Assembly adopted several resolutions on the subject, namely, resolution 599 (VI) of 31 January 1952, resolution 688 (VII) of 20 December 1952, resolution 895 (IX) of 4 December 1954, resolution 1181 (XII) of 29 November 1957 and lastly resolution 2330 (XXII) of 18 December 1967 which set up the present Special Committee.

15. Some representatives stated that the fact that the question was not an easy one should not be used as an argument for postponing a decision. Indeed many

^{2/} For the history of the question of defining aggression see Official Records of the General Assembly, Seventh Session, Annexes, agenda item 54, document A/2211.

problems discussed by United Nations organs were just as difficult, and lengthy discussions were needed before results could be achieved. All difficulties could and must be overcome with goodwill and a real concern for the elaboration of a definition of aggression.

Mandate of the Committee

16. From the outset there was some discussion on the mandate of the Committee as set out in General Assembly resolution 2330 (XXII). For most representatives the Special Committee had a specific task, namely, according to the title of resolution 2330 (XXII), to expedite the drafting of a definition of aggression in the light of the present international situation. Moreover, operative paragraph 3 of the same resolution instructed the Committee to consider all aspects of the question, so that an adequate definition of aggression might be prepared. The question was no longer whether or not aggression should be defined, since resolution 2330 (XXII) had put an end to that discussion. The task of the Committee was to submit specific proposals for the definition of aggression. To declare that the Committee's terms of reference did not include the elaboration of a definition of aggression would not correspond to the powers entrusted to the Committee. However, some representatives pointed out that the resolution did not specify which organ was entrusted with the preparation of an adequate definition.

17. For other representatives, the only instruction contained in resolution 2330 (XXII) was that the Committee should consider all aspects of the question and submit a report to the General Assembly, the consideration of draft definitions of aggression being a possibility, the realization of which would depend on the submission of proposals to the Special Committee. It was pointed out that the text of operative paragraph 3 of the USSR draft resolution submitted to the Sixth Committee (A/C.6/L.636)^{3/} had proposed that a Special Committee be explicitly instructed to draft a definition of aggression but that the text of resolution 2330 (XXII) was worded differently. This did not mean, however, that the Committee must confine itself to an academic debate; on the contrary, the discussion could

^{3/} See Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 95, document A/6988, para. 2.

lead the Committee either to include a definition of aggression in its report or do no more than submit a report to the General Assembly reflecting all the views expressed and the proposals made during the debate.

Value of a definition of aggression

18. In the opinion of several representatives, a legal definition of aggression would provide guidance for Member States and the United Nations, especially the Security Council. It was recalled that the Security Council, which was empowered under the Charter to determine the existence of any breach of peace or act of aggression, had not hitherto been equipped with such a criterion and had been compelled to take action on specific situations as they arose.

19. Some representatives stated that legal considerations should predominate in the elaboration of a definition of aggression. Others, while agreeing with these views, stated that that definition of aggression must be based on real events in international life, since it was only from the examination of those events that the constituent elements of the phenomenon of aggression could be determined. Apart from legal considerations some representatives agreed that a definition of aggression was necessary for political reasons, especially in the prevailing state of international tension created by the aggressive policies of imperialist and colonialist States. The absence of a definition of aggression, they asserted, had made it easier to perpetrate crimes against the peoples of dependent countries in all parts of the world, to carry out acts of military aggression against national liberation movements and to intervene forcibly in the domestic affairs of other States.

20. Some representatives stated that at the very time the Security Council was debating the situation in the Middle East, Israel launched a war of aggression, on 5 June 1967, against three Arab States and that this aggression was continuing in the form of military occupation of parts of the territories of these States.

21. Portugal was said to have launched a war of aggression against Mozambique, Angola and other Territories under Portuguese oppression. The illegal régime of Southern Rhodesia and the Government of South Africa were also sharply criticized for denying the right of self-determination to the peoples of Zimbabwe and Namibia.

22. The representatives of Algeria, Bulgaria, Romania and Syria were of the opinion that the United States had committed aggression in Viet-Nam. The representative of Algeria mentioned also the blockading of and armed intervention in certain States in Latin America by United States forces.

23. The representative of the USSR also stated that the United States had committed aggression in Viet-Nam and had launched the most barbarous and criminal war since the aggression by Hitlerites against the peoples of Europe. He further stated that the United States had also committed other acts of aggression in Latin America, in Cuba, in Panama and in the Dominican Republic. Finally, current acts of aggression by the imperialist countries provided the necessary data for analysing specific forms of aggression.

24. The representatives of Australia and the United Kingdom did not accept the attribution of responsibility for aggression in Viet-Nam to the United States.

25. In reply to the USSR representative, the representative of the United States stated that it was true, as the representative of the Soviet Union had asserted, that an act of aggression had been committed in that part of the world, but the United States delegation categorically rejected the conclusion that the aggressor was the United States. The only aggressor was North Viet-Nam, and those in complicity with it. The United States delegation would be interested to hear the reasoning underlying the conclusions of the Soviet representative. He stated that the Hanoi régime, recognized by the Government of the USSR, which maintained diplomatic relations with it, and which had proposed it for membership in the United Nations, was bound by the obligations of international law enunciated in Article 2, paragraph 4, of the United Nations Charter. He said that the Government of North Viet-Nam was bound in the strictest terms by the Geneva Agreements of 1954 to refrain from using or even from permitting the use of force against the Republic of North Viet-Nam. He recalled also that North Viet-Nam had assumed obligations when signing the Geneva Agreement of 1962 on Laos. Those obligations, which had been accepted voluntarily by the Government of North Viet-Nam, were the same in essence as the principles on which the Charter was based. It was those obligations which the Hanoi Government had violated. If the representative of the Soviet Union did not deny that North Viet-Nam was bound by those obligations, perhaps he denied that North Viet-Nam was in fact using force, in an effort to impose control

of North on South Viet-Nam. He would in that case have to refute the political murders, terrorism, massive open and clandestine military operations waged by North Viet-Nam for years with the avowed purpose of changing the Government of the Republic of Viet-Nam and indeed the whole social system of that country. He would have to deny also that the territory of Laos had been turned into an open military staging ground and conduit of supply by the Hanoi régime - as Laotian representatives themselves had repeatedly made clear in the United Nations. He would have to deny further the random murder of the civilian population of Saigon, with the avowed purpose of changing the Government of the Republic of Viet-Nam. He recalled that the Soviet Union was a major material supplier of that aggression. He stated that the view of the Soviet Union betrayed an unwillingness to have the situation in Viet-Nam examined in light of the provisions of the Charter, recalling that the USSR had thwarted all efforts to have the matter considered by the Security Council. The United States delegation agreed with the representative of the USSR that the Committee should never lose sight of actual events. It was puzzled, however, by his statement that aggressors had always been confident that they would not be judged aggressors, and that indeed no such judgement had ever been made. Members of the Committee had already corrected that historical error. The Soviet Union occupied, in fact, the almost unique position among world Powers of having been formally judged an aggressor by a world body. It was instructive that the Soviet representative seemed to think that history, as well as international law, could be switched off at will.

26. The United States representative mentioned that at the twenty-second session of the General Assembly, the United States had felt it useful to recall some of the definitions of aggression proposed on a number of occasions by the Government of the Soviet Union, comparing them with the actions of a country which should have appeared an exemplar of virtue in its own international conduct. He had recalled in chronological order that in 1933 the Soviet Union had incorporated its proposed definition of aggression into non-aggression treaties with Estonia and Lithuania. A dozen years later those States had been forcibly occupied and incorporated into the Soviet Union. Everyone recalled the invasion of Finland in 1939 and the judgement by the League of Nations of aggression by the Soviet Union. A non-aggression treaty had also been signed with Czechoslovakia but, in 1948, the

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freely chosen Government of that country, under the threat of force, had been subverted with the assistance of agents of Soviet communism and a pro-Soviet régime had been installed. Czechoslovakia had appealed to the Security Council, but the Soviet Union had paralysed the Council by a double veto. Four years later, the Government of the Soviet Union had had the temerity to include in its proposed definition a paragraph calling it aggression to "promote an internal upheaval in another State or a reversal of policy in favour of the aggressor". Another version of the Soviet definition prohibited "invasion by its armed forces, even without a declaration of war, of the territory of another State". When the communist régime of North Korea had done just that in 1950, the Government of the USSR had acted as an accomplice. Everyone was familiar with the judgement of aggression which had been the result of consideration of the matter by the United Nations. The United States representative also stated that in 1956 the Soviet Union had overthrown the free Government set up by Hungarian patriots and had reimposed a communist régime by slaughtering those opposed to it. The Hungarian people must draw cold comfort from the pious declaration of the Government of the Soviet Union that no State could invade another State, retain its armed forces in another State without permission, or use any revolutionary or counter-revolutionary movement, civil war, disorders or strikes to justify an attack upon another. Soviet proposals had also always identified as aggression the "naval blockade of the coasts or ports of another State". A situation had arisen barely a year before in which a State Member of the United Nations had formally complained to the Security Council that just such an act had been committed. The very least that the Council could have done if it were to fulfil its responsibilities was to call on the parties to forgo those actions which threatened peace, to enable it to examine the competing charges. Just such proposals were made. The representative of the Soviet Union in the Security Council, who, it had been hoped would show a greater sense of

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responsibility, had instead taken the position that the forces of imperialism had invented a crisis for their own purposes and that there was no need for the Council to bother doing anything about the situation. The Committee did not need to be reminded of the catastrophic consequences of the Council's inaction at that time. That sampling of the record had shown that the Soviet Union had repeatedly condemned itself by acting against its own declarations.

27. In reply the USSR representative stated that the most flagrant case of aggression since the Second World War was that of the United States in Viet-Nam, where half a million United States troops were slaughtering a patriotic people trying to defend their country. The United States Government's stock response to accusations in that regard was that it was acting in self-defence, notwithstanding the fact that its own troops had attacked Viet-Nam and not vice versa. Even eminent United States citizens found their Government's position untenable from the standpoint of international law. It had violated the 1954 Geneva Agreements. It was now trying to take the credit for initiating the Paris talks, whereas the credit was due entirely to the efforts of peace-loving forces throughout the world. The USSR representative repudiated the United States representative's statement regarding Soviet action in the Baltic States and Hungary. The peoples of the Baltic States had themselves overthrown their bourgeois régimes, which had been prepared to support Hitler, and on the basis of a free referendum had proclaimed socialist republics and had voluntarily joined the USSR with the same rights as the other republics of the Union. The facts of the counter-revolution staged by reactionary elements in Hungary with the active participation of imperialist Powers were well known. Nevertheless, the United States representative had cited that clear case of United States-inspired indirect aggression against Hungary as Soviet interference in Hungary's internal affairs. The true position could be seen from the statements of Hungarian representatives on the subject in various United Nations bodies. He thought it injudicious of the United States representative to have mentioned the subject of naval blockades. The United States Government systematically used its fleets for intimidating small independent countries and

imposing its will on them. It would have succeeded in strangling Cuba's economic life if the USSR and other socialist countries had not come to that country's assistance. The United States representative had also distorted the facts about Israel's aggression in the Middle East and United States action in Korea.

28. Replying to the statement made by the United States representative, the representative of Czechoslovakia objected to the ill-founded allusion to the events which had taken place in Czechoslovakia in February 1948. He rejected the assertion that those events had been produced by interference from outside. The changes made then had been in accordance with the country's Constitution and were an expression of the sovereign will of the Czechoslovak people. Czechoslovakia was and intended to remain an independent sovereign State.

29. The representative of the United Arab Republic stated that the allegation made by Israel after it had committed its war of aggression, that a naval blockade took place prior to 5 June 1967, was merely a desperate attempt to justify its war of aggression. The representative of the United Arab Republic asserted that neither his country nor any other Arab country had proclaimed or resorted to a naval blockade. He also expressed his country's opposition to the policy of naval blockade at the Security Council meeting on 24 October 1962, when the crisis in the Caribbean was considered. He reaffirmed his country's opposition to any use of force on the high seas or in the territorial waters of other States.

30. In the view of most representatives a definition of aggression could constitute a legal and political indictment of aggression in any form. It would be of fundamental importance, not only for the development of international law, but for the maintenance of international peace and security. It would, in addition, have a moral authority and a political value, especially if the definition had been supported by an overwhelming majority. Many stressed the view that the majority should include the permanent members of the Security Council. A definition would help to reinforce the conviction that aggression was an international crime and avoid misunderstanding or false interpretation that might confuse world opinion. It would also help to create a system of collective security.

31. A definition of aggression would reflect the conscience of mankind and would be a first step towards the realization of the lex perfecta. It would be neither more nor less than a formulation of the general principles of law recognized by civilized nations as envisaged in Article 38, paragraph 1 c, of the Statute of the International Court of Justice.

32. However, doubts were expressed by some representatives as to the value of a definition, especially one enumerating concrete acts of aggression, for it might cause serious danger to the security of a nation unless it were used in conjunction with an appropriate fact-finding system organized by international agreement. Aggressors might be tempted to concentrate their efforts upon evading the acts that were enumerated and the definition might result in encouraging acts of aggression not enumerated, but in fact much more serious.

33. Some delegations also expressed doubts as to the advisability of defining aggression at all. Some of these were of the opinion that a definition would hardly facilitate the task of the Security Council since it would restrict the discretion which the Council possessed under the Charter. The main thing needed to deter or suppress aggression was not to have a definition, but to ensure that the system of collective security would be applied and until now it was not the absence of a definition of aggression which had hampered the organs of the United Nations in their efforts to maintain peace and security. Success or failure had depended on the willingness, or lack of willingness, of States Members to respect their Charter obligations. Consequently there was the danger that a definition would create an illusion of accomplishment when none in fact had been made.

Type of definition

34. Of the three types of definition hitherto proposed, i.e., general definition, enumerative definition and mixed definition, the latter was the one preferred by most representatives. In such a definition, a flexible description, couched in general terms, would precede and govern a list of definite acts of aggression, which would be included merely to illustrate and not to restrict the general description.

35. It was pointed out that previous objections to the mixed type of definition had not been objections to the concept of a mixed definition, but only to draft proposals that had been submitted.

36. However, it was held that one could doubt the wisdom of enumerating concrete acts of aggression even in a mixed formula for any non-exhaustive enumeration would be open to abuse and would omit examples that could not be predicted.

Form to be given to the instrument embodying a definition

37. The inclusion of a definition of aggression in the United Nations Charter was ruled out by some representatives in view of the difficulties of procedure which would be involved in any attempt to amend the Charter. It was also recalled that the United Nations Conference in San Francisco had decided not to include a definition of aggression in the Charter.

38. Another possibility was to draw up a multilateral convention including such a definition, but procedural difficulties in this event would also be substantial and even if it proved politically possible to draft and agree on such a convention, it would take far too long for it to come into effect. Such a procedure might however not be excluded later.

39. It was emphasized by some representatives that the only feasible approach at present appeared to be the adoption of a resolution by the General Assembly, whose competence was established by Articles 10, 11 and 13 of the Charter.

40. It was noted that the central role of the Security Council should be taken into account in deciding the appropriate manner of promulgating a definition.

Relations between the definition and the Charter

41. Several representatives considered that every part of a definition of aggression should refer specifically to appropriate Articles of the Charter. It was stated that a comparison of Article 1, paragraph 1, and Article 39 of the Charter indicated that the concept of aggression was clearly connected with the maintenance of international peace and security and, more especially, with breaches of peace. Nowhere did the Charter contain any elaboration, interpretation or definition of the word "aggression". That omission had been decided by the San Francisco Conference which had chosen to leave the matter to the absolute discretion of the Security Council. Therefore a definition of aggression based on the Charter could be used only in accordance with the procedure laid down in Article 39, which empowered the Security Council to determine the existence of an

act of aggression and to decide what measures should be taken to restore peace and security. No United Nations organ, not even the General Assembly, could compel the Security Council to adopt a given line of conduct on the matter. The discretionary authority of the Security Council with respect to determination of acts of aggression, threats to peace and breaches of the peace, must be fully preserved. A definition of aggression to be acceptable to a large majority must, therefore, be general enough to leave untouched the powers of the Security Council under the Charter. It was indispensable to preserve the flexibility of the discretionary power of the Security Council and not to alter the roles of the Security Council and the General Assembly.

42. It was stated that any definition that went beyond the Charter could have only the force of a moral obligation, not of a contractual obligation. To convert such a moral obligation into a contractual obligation, the Charter itself would have to be amended in accordance with Article 108.

Meaning of the concept of aggression

43. Some representatives were of the opinion that it was necessary first to agree on the meaning of the concept of aggression. It was stated that it was not sufficient to know what sorts of acts a definition might properly characterize as "aggression"; one must also know by whom and against whom a definition is to provide that those acts may be committed and what political entities may commit or be made the victim of aggression.

44. It was generally accepted that Article 2, paragraph 4, of the Charter whereby all Member States "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations" expresses a principle of international law binding on all States. In addition, the general authority of the United Nations with respect to the maintenance of international peace and security is expressly extended by Article 2, paragraph 6, to States not Members of the United Nations and to certain political entities whose status in international law is in fact disputed. Any definition of aggression should take account of that fact.

Activities proposed for inclusion in the concept
of aggression

Direct aggression

45. A large number of the representatives were of the opinion that priority should be given in a definition to the direct use of force or what they termed "direct aggression". Other representatives said that a definition should include all methods of using force whether direct or indirect although it could not properly extend, for example, to economic or political activities. It was pointed out that aggression within the meaning of the Charter, and especially Article 2, paragraph 4, could only be a certain use of armed force and could not have an unlimited meaning covering all forms of economic, political or ideological pressure. That form of coercion was covered in particular by the principle of non-intervention in the domestic and external affairs of States. Moreover, not all uses of armed force could be considered to warrant action by the United Nations. Under the Charter, only the use or threat of force against the territorial integrity or political independence of a State, or in any other manner inconsistent with the purposes of the United Nations, could justify such action.

46. Among those in favour of giving priority to the definition of "direct armed aggression", a large group of representatives specified that their position did not prevent consideration of forms of "indirect aggression", including "economic" and "ideological aggression".

47. One representative however was of the opinion that the Committee should not start by defining armed aggression. The first priority should be a definition of aggression itself.

Indirect aggression

48. Some representatives maintained that a definition of aggression should include "indirect aggression". As examples of "indirect aggression", activities which might involve only the indirect use of force were mentioned such as the support of armed bands of one State against another, sabotage, terrorism and subversion. Some representatives considered subversion, claimed to be the most typical form of indirect aggression, as dangerous as war.

49. However, according to some representatives, the concept of aggression would be unduly stretched by the inclusion of "indirect aggression" in the definition.

50. The view was expressed by some representatives that classification of acts of aggression as "direct" or "indirect" should be avoided as all representatives were not necessarily using these expressions to denote the same kinds of acts.

Economic and ideological aggression

51. Some representatives wished to include in the definition specific economic or ideological activities under the description of "economic or ideological aggression". They maintained that by such means the same ends might be achieved as by armed force, and that at the present time the economic and ideological means of aggression were especially important.

52. However, other representatives were opposed to such a solution because the concept of aggression as used in the Charter did not in their view include ideological or economic aggression, unless they involved some recourse to armed force. These activities, although they could be considered as a threat to the peace, fell into quite a different category and were not of the competence of the Special Committee.

Activities involving the use of force, direct or indirect, overt or covert

53. Some representatives rejected the distinction among various "forms" of aggression set forth in the foregoing paragraphs since they considered this foreign to the Charter. They were of the view that a definition must be concerned simply with aggression, which would extend to all methods of the use of armed or physical force, whether direct or indirect, overt or covert.

The principle of priority

54. The priority principle was mentioned by some representatives as an important criterion for aggression and a long-recognized principle of international law, embodied in Article 51 of the Charter. A definition which neglected the principle of priority would not only be ambiguous, but might also be used as a justification for preventive war which is a violation of the Charter. Since the inherent right of individual or collective self-defence was enshrined in Article 51 of the Charter,

it was essential that the definition of aggression should stipulate the aggressor was the State which first committed any of the acts listed as constituting aggression. Some representatives, although recognizing the significance of this principle, emphasized the necessity of a logical and reasonable interpretation of that principle. According to them an exception to the principle was the case of collective measures ordered or recommended by the competent United Nations organs.

55. Some representatives denied the existence of the priority principle as a principle recognized in international law. They stated that the aggressor would not necessarily be the State which first committed an act considered as an act of aggression. Whether or not the State was the aggressor would depend on the circumstances peculiar to each particular case.

Aggression and self-defence

56. This question was considered as closely linked with the preceding one. It was reaffirmed by most representatives that the inherent right of individual or collective self-defence could only be exercised in cases of armed attack in accordance with Article 51 of the Charter.

57. In particular, some representatives asserted that no political, economic, strategic, social, ideological or security consideration could be invoked for justifying a preventive war. However, some considered that a State which is the victim of subversive or terroristic acts supported by another State could take reasonable and adequate steps to safeguard its existence and its institutions.

58. Some representatives held the view that this would give rise to the application of Article 51, while others were of a contrary opinion.

59. Some representatives stressed, however, that a definition of aggression though it must take into account self-defence should not attempt to spell out the limits of that concept or other lawful use of force.

Acts considered as not constituting acts of aggression

60. Several representatives were of the opinion that action taken by subject or colonized peoples for their national liberation should be considered legitimate in accordance with the terms of the Charter.

61. These views were opposed by other representatives who considered that provisions on this question would not be appropriate for inclusion in a definition of aggression.

62. In the same manner, repelling an invader and resisting occupation forces should not be considered acts of aggression.

Relationship between a definition of aggression and the question of friendly relations

63. The view was expressed by some representatives that the Special Committee should recommend co-ordinating the results of its work with that of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which was studying the principle of Article 2, paragraph 4, of the Charter dealing with the question of threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

64. Some representatives pointed out that a definition of aggression should not, therefore, deal with the details of the conditions of lawful use of force. Other representatives held the opposite view.

Connexion between a definition of aggression and the Draft Code of Offences against the Peace and Security of Mankind and the question of an international criminal jurisdiction

65. One representative recalled that the Draft Code of Offences against the Peace and Security of Mankind^{4/} formulated in 1951 by the International Law Commission had remained in abeyance pending a definition of aggression, following a decision adopted by the General Assembly at its ninth session in 1954 (resolution 897 (IX)). The General Assembly considered that the Draft Code of Offences raised problems closely related to that of the definition of aggression. Likewise, the General Assembly, by resolution 898 (IX), decided to postpone consideration of the question of an international criminal jurisdiction until it could take up again the question of defining aggression.

66. A number of representatives pointed out that the Special Committee was not to be concerned with the definition of aggression within the meaning of international criminal responsibility.

^{4/} Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858), pp. 11-14.

B. Debate on draft proposals

67. Representatives expressed their appreciation to the sponsors of the draft proposals submitted respectively by twelve Powers (A/AC.134/L.3 and Add.1) and four Powers (A/AC.134/L.4/Rev.1 and Add.1), for their genuine efforts in submitting texts taking into account the different views expressed on the question of defining aggression. The texts were considered as being a real contribution towards the completion of the Committee's task.

68. Some representatives regretted, however, that both drafts did not take sufficiently into account drafts on aggression submitted previously to United Nations organs.

69. It was pointed out that in spite of similarities, there were fundamental differences between the draft submitted by the twelve Powers (A/AC.134/L.3 and Add.1) and the draft of the four Powers (A/AC.134/L.4/Rev.1 and Add.1) both as to approach and as to structure.

70. For example, the four Power draft did not contain a preamble and a reference to military occupation or annexation, as was the case in the twelve Power draft while the latter did not make reference to subversive or terroristic acts supported by another State or to the use of force by regional agencies. Consequently, most representatives commented on them separately, although cross-references to both texts were frequent and comments frequently applied to both texts. Several representatives expressed appreciation at the fact that both texts adopted a mixed definition and were limited to direct or armed aggression.

71. Some delegations stressed that both drafts failed in a variety of fundamental ways to satisfy the criteria of an adequate definition. It was said that both drafts went beyond the concept of aggression in attempting to define various aspects of the lawful use of force, such as the inherent right of self-defence or the use of force by regional organizations, and, in addition, deviated from the Charter in their treatment of these other concepts, although most delegations rejected this contention.

72. Both drafts were criticized for failure adequately to preserve and reflect the Charter system in which the term "aggression" was to be applied, particularly in respect of the discretionary power of the Security Council. Further it was pointed out that both drafts failed to apply to certain political entities which might not be generally recognized as States, but which were nevertheless subject to the

prohibitions of international law regarding force and aggression. Some stressed, as a major fault of both drafts, their failure to apply to use of force by one State against another, directly or indirectly, through such means as infiltration of armed bands, terrorism, or subversion. In the view of these delegations, no definition would be acceptable which did not deal adequately with such cases of aggression. Other delegations held this view untenable.

73. Some noted that both drafts failed to exclude trivial or de minimis violations of the prohibition on the use of force, a failure which debased the meaning of the term "aggression" and was not appropriate to its role in the Charter system.

74. Most delegations, however, emphasized the many constructive and positive aspects of both draft proposals. They nevertheless recognized the need to modify certain points with a view to arriving at a single draft which would facilitate the Committee's task of defining aggression.

75. Sponsors of both drafts were conscious that their texts could be improved and they were prepared to accept amendments which would make the texts acceptable to more representatives. A possible combination of both texts was envisaged during the debate and sponsors set up informal working groups with a view to achieving that goal.

Twelve-Power draft proposal (A/AC.134/L.3 and Add.1)

76. Some representatives were opposed to the formulation of the proposal as a "Draft Declaration on Aggression". Other representatives expressed preference for a text of a definition cast as a resolution. They were of the opinion that the discretionary powers of the Security Council would be affected by a Declaration.

77. Some representatives questioned the usefulness and desirability of the extensive preamble, which they claimed were without parallel in the drafts relating to the definition of aggression prepared since 1951. They said it gave the definition a political rather than a legal character, because it introduced ideas not contained in the definition itself. Some representatives were of the opinion that a preamble should be confined to references to the successive General Assembly resolutions on the subject and to an affirmation of the objectives and basic principles underlying the provisions of the operative part. This view was not shared by the majority.

78. Some representatives, while recognizing that preambular paragraphs 2, 3 and 4 could be considered as a genuine attempt to safeguard the role of the Security Council, thought that the whole draft was not entirely satisfactory in that respect, mainly because it made references to indirect aggression. It was also said that in paragraph 4 the "competent organs" of the United Nations should be replaced by the "Security Council".

79. Some representatives regretted the absence of a reference to Article 24 of the Charter in preambular paragraphs 2 and 3.

80. Some representatives objected to the wording of preambular paragraph 7, which contained such expressions as "original competence to employ force", "peremptory norm of international law" and "contemporary international law".

81. Some representatives pointed out that there was ambiguity between the general formula contained in operative paragraph 1, which pertained to the use of force "in any form" and the acts of aggression listed in operative paragraph 2, which were restricted to armed aggression. It was, therefore, not clear whether the word "force" in paragraph 1 was to be understood as including indirect forms of aggression. This ambiguity was strengthened by the wording of paragraphs 7 and 8 of the preamble, which made a distinction between the two notions of aggression. It was held that in operative paragraph 1 the notion of aggression should be defined by means of a criterion which took into account the nature and the gravity of the act in question. Some representatives also objected to the mention of groups of States as being unnecessary.

82. A number of representatives pointed out that the criterion that the definition should be applicable to entities not generally recognized as States was not met by the draft declaration.

83. Some representatives also pointed out that the acts listed under sub-paragraphs (a), (b), (c) and (d) of operative paragraph 2 could either be considered as acts of aggression or acts of self-defence. Some of them considered that this was because the definition did not take into account the principle of priority whereby the State should be declared the attacker "which first commits" the acts listed. They held that this principle was absolutely necessary to determine whether an act is licit or illicit.

84. Other representatives, while agreeing that it was not possible to determine whether the acts listed constituted acts of aggression or acts of self-defence, did

not consider the "priority principle" as being sufficient or desirable as an essential element of aggression. A reference to that intent would, however, be necessary.

85. Some representatives stated that the list of acts of aggression was incomplete as it did not include cases of aggression perpetrated without a declaration of war. Some representatives, on the other hand, held that it was unnecessary to list declaration of war or blockade as acts of aggression since they might not involve the use of force and that annexation would constitute aggression only if force was used.

86. Some representatives were opposed to the insertion in operative paragraph 2 of the phrase "and without prejudice to the declaration of other acts as forms of aggression in the future" as being both unnecessary and potentially dangerous. If it applied to acts due to the use of armed force, the acts in question should be listed clearly. The formula should not be used if it referred to purely hypothetical acts, as it could affect the prerogative of determining the existence of acts of aggression conferred upon the Security Council by Article 39 of the Charter.

87. Operative paragraph 3, relating to the right of self-determination in accordance with General Assembly resolution 1514 (XV), was considered by some representatives as not, legally speaking, constituting a part of a definition of aggression.

88. Likewise, several representatives stated that operative paragraph 4 had no real connexion with the definition of aggression and that its inclusion was neither useful nor desirable. Since aggression was to be condemned, there was no justification for acts of aggression as such.

Four-Power draft proposal (A/AC.134/L.4/Rev.1 and Add.1)

89. Some representatives were of the opinion that the four-Power draft was not in fact a "definition" of aggression, but a mere enumeration of instances providing no criterion by which one could consider the enumerated acts "aggression" or as "aggression" acts not enumerated.

90. It was also stated by some representatives that the first seven paragraphs of the draft dealt exclusively with the scope of the principles of non-use of force rather than with the concept of aggression.

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91. A number of representatives were of the opinion that the same ambiguity as to the meaning of "force" which existed in the twelve-Power draft resolution also applied to the four-Power draft resolution. Attention was drawn by some representatives to the fact that while paragraph 8 concerned only direct aggression, paragraph 5 dealt with indirect aggression, although the consensus of the Committee had been to restrict the definition, for the time being at least, to direct armed aggression. Other delegations rejected the distinction between "direct" and "indirect" aggression in a definition, maintaining that both direct and indirect uses of force should be covered. The absence of a general introductory clause in paragraph 8 before the list of acts of aggression was considered as depriving the definition of any practical usefulness.

92. Some representatives were opposed to paragraph 5 whereby a State, victim of subversive or terroristic acts supported by another State, was allowed to take reasonable and adequate steps to safeguard its existence and institutions. Some were of the opinion that this was inappropriate and dangerous because it would be hard to accept the idea of punitive or preventive attack against a State which provided only material support to the subversive elements in another country. The question would be different if a State sent its own nationals to commit subversion in another State. In that case, it would be in direct aggression and as the Committee was for the time being restricting a definition to direct armed aggression, it was not proper to consider that case now.

93. Other representatives pointed out that paragraph 5 was inadequate and inappropriate since, in so far as the reasonable and necessary measures it permitted were internal, the paragraph had no bearing on international law, and since terrorism and subversion, as well as armed bands, could be uses of force by one State against another constituting acts of aggression. In any event they gave rise to a right of self-defence against that other State as recognized in Article 51, irrespective of the nationality of the agents, terrorists, or infiltrators used.

94. Some representatives objected to the reference in paragraph 6 to the legality of the use of force by regional agencies with the authorization of the Security Council in accordance with Article 53 of the Charter and of its use without the authorization of the Security Council in cases of self-defence. They were of the opinion that Article 53 referred to action by regional agencies as agents of the Security Council, whereas the draft represented the Council as a mere controlling organ, which could permit or not an action decided on by the regional agency.

95. Other representatives questioned the relevance and legal accuracy of this paragraph. To them it seemed to be at variance with the Charter, since Article 53 spoke neither of "express" authorization nor of "use of force", and the paragraph failed to take into account Article 52. Some representatives, however, strongly objected to this interpretation.

96. Paragraphs 7 and 9 which corresponded to operative paragraphs 3 and 4 of the twelve-Power text were considered by some representatives as being out of place in the draft as they had no connexion with a definition of aggression, while other representatives considered them as being of supreme importance in relation to present or foreseeable situations.

97. Some representatives who objected to operative paragraph 4 of the twelve-Power draft were prepared to accept paragraph 9 of the four-Power draft.

Thirteen-Power draft proposal (A/AC.134/L.6 and Add.1-2)

98. Most of the representatives who spoke on the draft proposal submitted by the thirteen Powers stated that in view of the fact that the text had been distributed at the final stage of the session their comments would be of a preliminary nature.

99. Several representatives expressed their appreciation to the co-sponsors for their genuine efforts to concern themselves with the points of criticism made during the debate on the four-Power and the twelve-Power drafts. Some representatives regretted, however, that such a compromise text had been possible to achieve only by omitting or blurring critical points of differences. Such result was dangerous as it gave the illusion of an agreement between several schools of opinion where in fact it did not exist. Other representatives stated that a number of their basic criticisms had apparently still not been met.

100. Preambular paragraph 5 was claimed to be defective because it did not state which organ was responsible for declaring that aggression had occurred, whereas the Charter made it clear that such a right belonged to the Security Council.

101. Some representatives stated that one important defect of the draft was the mention in operative paragraph 1 of the indirect use of force, whereas the consensus of the Committee had been to restrict the definition, at least for the time being, to the direct use of force. For some representatives the inclusion of indirect force would unduly enlarge the scope of aggression by branding as aggression trivial

cases of use of force, whereas it did not really permit States to use their right of self-defence. The same uncertainty was said to exist also in respect of operative paragraph 10.

102. Other representatives however, pointed out that the inclusion of "indirect" use of force was a step in the right direction, albeit one regrettably not carried out elsewhere in the draft.

103. Another important defect was said to be the absence in the text of the definition of a clear statement proclaiming the right of resistance of peoples who are forcibly prevented from exercising their inherent right to self-determination.

104. Some representatives stated that the text was unacceptable because the priority principle was not mentioned and in this respect the new text was not an improvement. Others, however, considered the priority principle as not relevant in every instance or not legally sound.

105. Some representatives stated that in operative paragraph 2 only the Security Council should be given the competence to use force in conformity with the Charter, a view challenged by others.

106. Some representatives were of the opinion that operative paragraph 8 was objectionable because it was seriously at variance with the United Nations Charter. Other representatives objected to this paragraph because it referred mainly to internal affairs of States, except in its prohibition of the recourse to self-defence (Article 51 of the Charter) in retaliation for acts of subversion.

107. It was stated that the description in operative paragraph 9 of armed aggression as a crime against international peace, giving rise to international liability and responsibility was too vague and indefinite. Other representatives, however, questioned the propriety of this paragraph.

Draft resolution submitted by the USSR (A/AC.134/L.7)

108. Several representatives expressed their appreciation to the representative of the USSR for submitting a draft resolution recommending to the General Assembly to decide that the Special Committee should resume its work before the end of 1968 in New York or Geneva so that it could complete its formulation of a draft definition of armed aggression (attack) and submit its proposals to the twenty-third session of the General Assembly.

109. They expressed the majority view that significant progress had been made during the session of the Committee and if agreement could not be reached on a text of a draft definition of aggression it was not for lack of co-operation or understanding, but for lack of time and, therefore, if the Committee were reconvened there was hope that a text of a definition could meet with the approval of the Committee.

110. Other representatives stated that it was premature to settle an issue which should be decided by the General Assembly. The only procedure to follow would therefore be to refer the draft proposals of the Committee to the General Assembly without making any recommendations. They pointed out that the USSR proposal had been submitted too late for them to receive specific instructions from their Governments. Some representatives stated that before taking a decision on the USSR draft resolution a statement of financial implications ought to be prepared and submitted to the Committee in accordance with rule 154 of the rules of procedure of the General Assembly.

111. Other representatives considered that an acceptable outcome of the Committee's consideration of this aspect would be the inclusion of a paragraph in the report of the Committee recommending to the General Assembly that the Committee's mandate be extended.

112. The representative of Canada, supported by other representatives, proposed the following text:

"It was the consensus of the Committee that the General Assembly should consider, as a matter of priority, the extension of the mandate of the Special Committee so as to enable it to actively pursue its work, before the end of 1968 or early in 1969, on the question of defining aggression."

113. At the request of the representative of the USSR, his draft resolution was put to the vote and adopted. A dispute then ensued with respect to the compatibility of the adopted resolution with the Canadian proposal. Subsequently the representative of Canada withdrew his proposal.

114. The view that the 1968 Special Committee had achieved much progress predominated the consideration of this last item.

115. Before a vote was taken the Secretary of the Committee drew attention, in accordance with rule 154 of the rules of procedure of the General Assembly, to the financial implications of the USSR draft proposal.

IV. VOTING

116. At its 24th meeting, on 6 July, the Special Committee voted on the draft resolution submitted by the Union of Soviet Socialist Republics (A/AC.134/L.7) incorporating the oral amendments submitted by Ghana and accepted by the sponsor. The draft resolution, as amended, was adopted by a roll-call vote of 18 to none, with 8 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Cyprus, Czechoslovakia, Ecuador, Finland, Ghana, Indonesia, Iran, Iraq, Mexico, Romania, Spain, Sudan, Syria, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Against: None.

Abstaining: Australia, France, Italy, Japan, Norway, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

V. RECOMMENDATION OF THE SPECIAL COMMITTEE

117. The text of the resolution adopted by the Special Committee reads as follows:

"The 1968 Special Committee on the Question of Defining Aggression recommends that the General Assembly adopt the following draft resolution:

'The General Assembly,

'Considering that General Assembly resolution 2330 (XXII) of 18 December 1967 recognized the widespread conviction of the need to expedite the definition of aggression and instructed the Special Committee on the Question of Defining Aggression to consider all aspects of the question so that an adequate definition of aggression might be prepared,

'Considering that the Committee's deliberations revealed the sincere desire of the overwhelming majority of the Committee's members to complete their work by submitting to the General Assembly a report containing a draft definition of aggression approved by the Committee,

'Noting the progress made by the Committee and the fact that there was not enough time in which to complete its important work,

'Decides:

'1. That the Special Committee on the Question of Defining Aggression shall resume its work as soon as possible before the end of 1968 in New York or at Geneva, so that it can complete its work by submitting a report containing a generally accepted draft definition of aggression to the General Assembly at its twenty-third session;

'2. To request the Secretary-General to provide the Special Committee with the necessary facilities and services.'

ANNEX

MEMBERSHIP OF THE SPECIAL COMMITTEE

ALGERIA

Representative: Mr. Smail Hamdani
Alternate: Mr. Nadjib Boulbina
Advisers: Mr. Mohamed Khaled Khelladi
Mr. Mohamed Lamine Allouane
Mr. Mohamed Laala

AUSTRALIA

Representatives: Sir Kenneth Bailey
Mr. Peter J. Curtis
Alternate: Mr. David Wyke Evans
Adviser: Mr. S.B. Murphy

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Representative: Mr. Milko Harizanov

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