

DEFINITION OF AGGRESSION

GENERAL ASSEMBLY RESOLUTION 3314 (XXIX)

Already under the League of Nations attempts were made to define aggression. The Special Committee of the Temporary Mixed Commission for the Reduction of Armaments, for instance, had considered it desirable to define exactly what constituted an act of aggression in order to provide the basis for the Council to decide in a given case whether an act of aggression had been committed. The Commission was, however, unable to draw up any such definition of aggression and therefore merely indicated the factors that might provide the elements of a just decision made by the Council (Commentary on the Definition of a case of Aggression by a Special Committee of the Temporary Mixed Commission, Records of the Fourth Assembly, Minutes of the Third Committee, League of Nations O.J. Spec. Supp. 26, pp. 183-185).

At the United Nations Conference on International Organization, held in San Francisco from 25 April to 26 June 1945, several delegations proposed that the term “aggression”, contained in section B of Chapter VIII of the Dumbarton Oaks Proposals (which later became Chapter VII of the Charter), be defined or explained, but the majority of Committee III/3, working with these issues, thought that a preliminary definition of the term went beyond the scope of the Charter and that the modern techniques of warfare rendered any definition of “aggression” impossible (see Report of Mr. Paul-Boncour, Rapporteur, on Chapter VIII, Section B, Doc. 881 (English) III/3/46, 10 June 1945, United Nations Conference on International Organization, Vol. 12, p. 505).

During its fifth session, the General Assembly, in resolution 378 (V) of 17 November 1950, decided to refer to the International Law Commission a proposal made by the Union of Soviet Socialist Republics in connection with the agenda item “Duties of States in the event of the outbreak of hostilities” and all the records of the First (Political and Security) Committee of the General Assembly dealing with the question, so that the Commission might take them into consideration and formulate its conclusions as soon as possible. The Soviet proposal provided that the General Assembly, “considering it necessary ... to define the concept of aggression as accurately as possible,” declares, *inter alia*, that “in an international conflict that State shall be declared the attacker which first commits” one of the acts enumerated in the proposal (A/C.1/608).

In 1951, the International Law Commission considered the question whether it should enumerate aggressive acts or try to draft a definition of aggression in general terms. It was decided that the only practical course was to aim at a general and abstract definition of aggression, but the Commission’s efforts to draw up a general definition were not successful. During the same session, the matter was reconsidered in connection with the preparation of the draft Code of Offences against the Peace and Security of Mankind. The Commission then decided to include among the offences defined in the draft Code any act of aggression and any threat of aggression (A/1858).

The report of the International Law Commission was on the agenda of the sixth session of the General Assembly, in 1952, and was submitted for consideration to the Sixth Committee, where it was discussed from 5 to 22 January 1952. The Committee adopted a draft resolution, which was submitted to the General Assembly (A/2087). On the recommendation of the Sixth Committee the General Assembly adopted resolution 599 (VI) on 31 January 1952. The General Assembly thereby concluded that it was both “possible and desirable, with a view to ensuring international peace and security and to developing international criminal law, to define

aggression by reference to the elements which constitute it". Furthermore, it decided to include the question of defining aggression in the agenda of its seventh session and instructed the Secretary-General to submit to it at that session a report in which the question of defining aggression should be thoroughly discussed.

The question of defining aggression was accordingly on the agenda of the General Assembly at its seventh session, in 1952, and was again allocated to the Sixth Committee for consideration. The Committee, which discussed the matter from 19 November to 10 December 1952, had before it the report on the question submitted by the Secretary-General (A/2211). Various representatives supported the idea of creating a special committee to study the question further and to present one or more draft definitions to the General Assembly. The Sixth Committee presented to the General Assembly a draft resolution providing accordingly (A/2322 and Corr.1), which the Assembly considered on 20 December 1952. By resolution 688 (VII) of that date, the General Assembly established a fifteen-member special committee which was requested to submit to the Assembly at its ninth session, in 1954, "draft definitions of aggression or draft statements of the notion of aggression".

The Special Committee met at United Nations Headquarters from 24 August to 21 September 1953. Several different texts aimed at defining aggression were presented. The committee, however, decided unanimously not to put the texts to a vote but to transmit them in its report (A/2638) to the General Assembly and to Member States for comments. Comments were received from eleven Member States.

The report of the Special Committee was on the agenda of the General Assembly at its ninth session, in 1954, and was submitted for consideration to the Sixth Committee, which discussed it from 14 October to 10 November 1954. Widely different views were expressed on whether it was possible and desirable to define aggression, on what type of definition should be adopted and on the draft definitions which had been submitted. No draft resolutions relating to the substance of the question were, however, put to a vote and the Sixth Committee instead decided, on 10 November 1954, by the adoption of a joint draft resolution submitted by Lebanon, Syria and Yemen (A/C.6/L.337 and Rev.1 and Add.1.), to propose that the General Assembly again establish a special committee to submit to it at its eleventh session, in 1956, a detailed report followed by a draft definition of aggression, having regard to the ideas expressed at the ninth session and to the proposals submitted by delegations. On the recommendation of the Sixth Committee, the General Assembly adopted resolution 895 (IX) of 4 December 1954, by which it established the Special Committee.

The Special Committee, composed of nineteen members, met at United Nations Headquarters from 8 October to 9 November 1956. The members of the Special Committee differed on the possibility and desirability of defining aggression, on the function and scope of such a definition and on the draft definitions submitted to it. The Special Committee therefore did not adopt a definition but decided to transmit its report (A/3574) to the General Assembly, summarizing the views expressed on the various aspects of the matter, together with the draft definitions previously submitted to it. Though the question of defining aggression was included in the provisional agenda of the eleventh session of the General Assembly, the Assembly decided that this item should be postponed until the twelfth session to allow Governments sufficient time to study the report of the Special Committee.

During the General Assembly's twelfth session, in 1957, the Sixth Committee again discussed the question of defining aggression, having before it the report of the 1956 Special Committee. Several draft resolutions were submitted to the Sixth Committee by Member States, but the Committee finally adopted a merely procedural draft resolution presented by Chile, Colombia, Cuba, Ecuador, El Salvador, the Philippines and Venezuela (A/C.3/L.403/Rev.1). On 29 November 1957, the General

Assembly thus adopted resolution 1181 (XII), by which it took note of the Special Committee's report, and decided to invite the views of twenty-two States admitted to the United Nations since 14 December 1955 and to renew the request for comments from other Member States. It also decided to refer the replies of Governments to a new committee, composed of the Member States which had served on the General Committee of the Assembly at its most recent regular session, and entrusted the committee with the procedural task of studying the replies "for the purpose of determining when it shall be appropriate for the General Assembly to consider again the question of defining aggression". Lastly, it requested "the Secretary-General to convene the first meeting of the committee prior to the fourteenth session of the General Assembly".

The said Committee accordingly met at United Nations Headquarters from 14 to 24 April 1959. It was decided (A/AC.91/2) that the fourteen replies received did not indicate any change of attitude and agreed to postpone further consideration of the question until April 1962, unless an absolute majority of its members favoured an earlier meeting in the light of new developments. The Committee asked the Secretary-General to transmit its resolution on the matter to all Member States and to convene the committee in either of the two cases specified.

As no such request to meet earlier than 1962 was received, the second session of the Committee began on 2 April 1962 at United Nations Headquarters in New York. At the end of that session on 9 April, the Committee, on the proposal of Cyprus, adopted a resolution (A/AC.91/3) providing for a further three-year adjournment of its work, until April 1965, unless a request for earlier consideration was received from an absolute majority of the committee's members. By the same resolution, the Committee also asked the Secretary-General to request States admitted to the United Nations since its 1959 session to submit their views on the question of defining aggression. It also asked him to renew his earlier request for other Member States to submit their views on the matter.

The third session of the Committee took place at the United Nations Headquarters between 5 and 16 April 1965, as no requests for an earlier meeting were received. At the conclusion of its work at that session, the Committee adopted, on the proposal of Cyprus, a resolution (A/AC.91/5) whereby it decided on a further adjournment until April 1967, again, unless a majority requested otherwise. By that resolution adopted on 16 April 1965, the Committee again asked the Secretary-General to request States admitted to the United Nations since its 1962 session to submit their views on the question of defining aggression.

At the fourth session of the Committee, held from 3 April to 26 May 1967, three draft resolutions were introduced, but the Committee took no decision on any of these proposals. On 22 September 1967, at the General Assembly's twenty-second session, the Union of Soviet Socialist Republics requested that an item entitled "Need to expedite the drafting of a definition of aggression in the light of the present international situation" be placed on the Assembly's agenda as an important and urgent matter (A/6833 and Corr.1). In deciding to place this item on its agenda, the General Assembly also decided that it should hold discussions first in plenary meetings of the General Assembly and then, in the light of the debate and results achieved, in the Sixth Committee. The plenary debate took place between 28 November and 4 December 1967. The item was then taken up in the Sixth Committee on 7 December 1967 and resulted in the adoption, on 14 December of the same, of a draft resolution, submitted by 26 Members (A/C.6/L.644). On the recommendation of the Sixth Committee, the General Assembly thus adopted resolution 2330 (XXII) on 18 December 1967, establishing a 35-member Special Committee on the Question of Defining Aggression which was to "consider all aspects of the question so that an adequate definition of aggression might be prepared" and "submit to the General Assembly at its twenty-third session a report which would reflect all the views

expressed and the proposals made.” It was furthermore decided “to include in the provisional agenda of [the General Assembly’s] twenty-third session an item entitled ‘Report of the Special Committee on the Question of Defining Aggression’”.

The Special Committee accordingly met, prior to the twenty-third session of the General Assembly, from 4 June to 6 July 1968, and adopted a draft resolution (A/7185/Rev.1) which would have had the Assembly decide, among other things, that the Special Committee should resume its work as soon as possible before the end of 1968, so that it could complete its work by submitting a report containing a generally accepted draft definition of aggression to the General Assembly at its twenty-third session. The report of the Special Committee was discussed at the General Assembly’s twenty-third session, later in 1968, mainly in the Sixth Committee. The Sixth Committee decided not to recommend that the General Assembly schedule meetings of the Special Committee during 1968 and instead adopted a draft resolution (A/C.6/L.733/Rev.1 and Add. 1-3) which would have the Special Committee resume its work as early as possible in 1969. On 18 December 1968, the General Assembly, acting on the basis of the recommendation of the Sixth Committee, adopted resolution 2420 (XXIII) on the question of defining aggression.

The Special Committee held six further sessions, one every year from 1968 to 1974, its mandate having been annually renewed by the General Assembly (see resolutions 2420 (XXIII) of 18 December 1968, 2549 (XXIV) of 12 December 1969, 2644 (XXV) of 25 November 1970, 2781 (XXVI) of 3 December 1971, 2967 (XXVII) of 14 December 1972 and 3105 (XXVIII) of 12 December 1973).

At its seventh and last session held at United Nations Headquarters in New York from 11 March to 12 April 1974, the Special Committee decided to establish a working group. The working group established three Contact Groups, to which it referred for consideration different areas relating to the definition of aggression. After the working group had received the reports of Contact Groups I, II and III, it established Contact Group IV, which was instructed to prepare a new consolidated text of the draft definition of aggression in the light of those reports. On 11 April 1974, the working group decided to refer the revised consolidated text prepared by Contact Group IV for final review to a drafting group. On the same day, the working group considered the text of the draft definition of aggression as finally reviewed by the drafting group. It took note of the report of the chairman of the drafting group and decided by consensus to submit to the Special Committee, for its approval, the text of the draft definition (A/9619 and Corr.1). It also recommended that the Special Committee include in its report further explanatory notes on the interpretation of certain words and phrases in articles 3 and 5 of the text. On 12 April 1974, the Special Committee adopted by consensus the text of the draft definition of aggression, as well as the explanatory notes, and recommended to the General Assembly the adoption of the draft.

The report of the Special Committee on the Question of Defining Aggression, which contained the draft definition, was taken up by the General Assembly at its twenty-ninth session, in 1974, and was referred to the Sixth Committee for consideration. The Sixth Committee considered the report and the text of the definition between 8 October and 22 November 1974. It made no amendments to the text of the definition elaborated by the Special Committee, but decided to include in its report to the General Assembly two statements clarifying the Sixth Committee’s views on operative paragraphs 3(c) and 3(d) concerning the qualification of “[t]he blockade of the ports or coasts of a State by the armed forces of another State” and “[a]n attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State” as acts of aggression. On the recommendation of the Sixth Committee, the General Assembly, on 14 December 1974, adopted without a vote resolution 3314 (XXIX), to which the Definition of Aggression was annexed. The General Assembly also called the attention of the Security Council to the Definition and recommended

that the Security Council should, as appropriate, take account of that Definition as guidance in determining, in accordance with the Charter, the existence of an act of aggression.