

Document:-
A/CN.4/L.13

**Definition of aggression - Text tentatively adopted by the Commission at its 95th meeting,
4 June 1951 - incorporated in footnote 1 of A/CN.4/SR.96**

Topic:
Question of defining aggression

Extract from the Yearbook of the International Law Commission:-
1951, vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

in execution of a decision by a competent organ of the United Nations ”.

143. Mr. HUDSON remarked that the use of the word “decision” without any amplification raised a difficulty. While the Security Council took decisions, the General Assembly made recommendations.

144. Mr. KERNO (Assistant Secretary-General) wondered whether it would not be better to say “in execution of a decision providing for the use of armed force” or “a decision to that effect”. It should not be suggested that all decisions authorized the use of force.

145. As regards the term “decision”, the Charter spoke of decisions and recommendations, but in actual fact, they were always resolutions. He had himself been embarrassed by the word “decision”, which did not include resolutions. The Security Council’s decision of 27 June 1950 stated that the Council “recommends”. He suggested the wording: “a resolution to that effect”.

146. Mr. HUDSON pointed out that it was not possible to execute a recommendation. The proper wording was “or in pursuance of a decision or recommendation by a competent organ of the United Nations”.

Mr. Hudson’s amendment was adopted.

The meeting rose at 6.20 p.m.

96th MEETING

Tuesday, 5 June 1951, at 9.45 a.m.

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Chairman: Mr. James L. BRIERLY
Rapporteur: Mr. Roberto CORDOVA

Present:

Members: Mr. Ricardo J. ALFARO, Mr. Gilberto AMADO, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Manley O. HUDSON, Mr. Faris EL KHOURY, Mr. A. E. F. SANDSTRÖM, Mr. Jean SPIROPOULOS, Mr. Jesús María YEPES.

Secretariat: Mr. Ivan KERNO, Assistant Secretary-General in charge of the Legal Department; Mr. Yuen-li LIANG, Director of the Division for the Development and Codification of International Law, and Secretary to the Commission.

General Assembly resolution 378 B (V): Duties of States in the event of the outbreak of hostilities (item 3 of the agenda) (A/CN.4/44, chapter II: The possibility and desirability of defining aggression; A/CN.4/L.6; A/CN.4/L.11 and A/CN.4/L.13) (*continued*)

DISCUSSION OF THE TEXT TENTATIVELY ADOPTED BY THE COMMISSION

1. The CHAIRMAN stated that the Commission had before it a text (A/CN.4/L.13) which it had tentatively adopted the previous day as a definition of aggression.¹ He added that the Commission needed to speed up its work.

2. Mr. HSU noted that Mr. Córdova proposed the wording “or Government of another State” instead of “or Government” in line 2. He himself would like to propose the wording “against a foreign State” instead of “against another State or Government”.

3. The insertion of the words “whatever the weapons used and whether openly or otherwise” was a great improvement. As a further amendment it might be possible to consider inserting, between “openly” and “or otherwise”, the words “by fomenting civil strife in the interest of a foreign State”. The definition could not possibly be interpreted as including that type of aggression of which there had been several cases during the last few years. Unless that course were followed the word “abstract” which had been used to qualify the definition would no longer be the opposite of concrete but would signify “abstruse”. The commentary might of course help to make the definition intelligible, but to rely on the commentary to do so was only a makeshift.

4. It would be well also to make it clear what was meant by “openly or otherwise”. If an atom bomb were dropped on the Empire State Building in New York, it would be used openly; but if a delayed action bomb were placed in the basement of that Building, it would be a secret use of the bomb. Hence it was not enough to say “openly or otherwise”; the text of General Assembly resolution 380 (V) must be followed in its entirety. If the amendment (A/CN.4/L.11) he was proposing were rejected, it would be a retrograde step.

5. Mr. SANDSTRÖM said that so far the Commission had made great efforts to arrive at a satisfactory definition. It remained now to be seen whether the definition really was satisfactory. He agreed with Mr. Hsu that the definition produced was “abstract”. An examination of the draft resolution submitted by the Soviet Union in the First Committee of the General Assembly (A/C.1/608) made it clear that its object was essentially a practical one and he was sure the Commission’s definition would not be acceptable to the Soviet Union, which had aimed at a definition which would make it possible to ascertain

¹ Document A/CN.4/L.13 read as follows:

“Aggression is the use of force by a State or Government against another State or Government*, in any manner, whatever the weapons used and whether openly or otherwise, for any reason or for any purpose other than individual or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations.”

* Mr. Córdova proposed to add here the words “of another State”.