

External Affairs  
Supplementary Paper

No. 57/14 STATEMENT ON DEFINITION OF AGGRESSION

Statement by Mr. D. Jung, M.P., Canadian Representative,  
in the Sixth Committee of the United Nations General  
Assembly, on October 29, 1957.

On previous occasions, when the definition of aggression has been discussed in this Committee, the Canadian Delegation has voiced its doubts concerning the possibility of general agreement being reached on any one definition and it has questioned the desirability, in the present international atmosphere at least, of defining aggression.

In saying this I am fully aware that a majority of delegations have in the past favoured defining aggression. I need hardly remind this Committee, however, of the long and detailed consideration which has been given this question, without any real progress, in this Committee and elsewhere, being made in the direction of any one definition. This unhappy experience, I think, points to the conclusion that it probably is not possible, at least in immediate circumstances, to define aggression -- possible, that is, in the sense of drafting one definition which would be generally acceptable to members of the Organization. In this connection it would seem beyond question that any definition, to have any meaning at all, would have to be agreed to by the permanent members of the Security Council and by at least a two-thirds majority of the General Assembly. Let us review the question in this light.

Mr. Chairman, as we all know, this question first came before this Organization in 1950 when it was introduced by the U.S.S.R. The General Assembly that year passed the question to the International Law Commission which dealt with it in 1951 and reported back to the General Assembly that same year that it could not agree on any one definition. The report of the International Law Commission was discussed in this Committee for the first time that year. During 17 meetings at which the Committee discussed the question of defining aggression, a measure of disagreement was evident concerning the possibility and desirability of defining aggression. It was decided to request the Secretary-General to submit a report to the next following Session of the General Assembly, at which time it was intended that the question of defining aggression should be thoroughly discussed in the light of the views expressed in this Committee. At the Seventh Session of the General Assembly in 1952, the Secretary-General's report was discussed for a period of 18 meetings, at the end of which it was decided that a special committee should be set up. The special committee was to submit, to the Ninth Session in 1954, draft definitions of aggression or draft statements of the notion of aggression, and was to study the various problems related to the question of defining aggression. This Committee, comprising 15 member states, met for four weeks in 1953. Four definitions of aggression were appended to the Committee's report, but it

decided unanimously not to put them to a vote. The question came before the Sixth Committee for the third time in 1954, and 17 more meetings were given over to discussing it. Another special committee, comprising 19 member states, was set up and requested to submit a detailed report, followed by a draft definition, to the Eleventh Session of the General Assembly. This Committee had before it some 15 draft definitions or suggestions but despite the fact that the Assembly had requested the Committee - and here I quote the Assembly resolution -- "to submit a report followed by a definition", the Committee decided not to vote on the draft definitions before it. Presumably, this decision arose because no one of the 15 suggestions set out in the annex of the Committee's report was acceptable to a majority of the Committee. At the Eleventh Session the question was postponed to the Twelfth Session. Now, for the fourth time, this Committee is discussing the question and bids fair to spend a large portion of its time on this question. The same pattern of disagreement is developing as has developed on previous occasions in this Committee and in the special committees.

Mr. Chairman, I realize that the fact of lengthy consideration -- and both the League of Nations and the United Nations have indeed given that to this question -- does not necessarily indicate that it is not possible to define aggression. The development of International Law is necessarily a slow process, but if one examines the record of disagreement on this subject, it is difficult to avoid concluding that a single definition cannot be evolved which would command a general acceptance in this Committee. I should like to interject here that undoubtedly the studies which have been carried out will be a significant contribution to international legal literature. But I wonder if we have not reached the stage at which any further studies would be purely repetitive? I do not in any sense wish to detract from the gratitude due to those who have conducted these studies, and in particular, I should like to express our special appreciation to Professor Röling, the author of the report now before us. I do think, however, as I have just suggested, that no further useful purpose can be served by pursuing this question further, at least for the time being.

Even if a definition of aggression were possible, my delegation questions the desirability of the definitions we have before us. We are fully aware that many delegations sincerely believe that a definition would assist the organs of the United Nations in maintaining peace and security. We realize that in part our doubt may stem from approaching the question from a common law point of view which often avoids defining, in the sense of codifying in advance, legal concepts. But beyond this, my delegation is still doubtful whether a definition -- even if it could command the unanimous approval of the permanent members of the Security Council and by far the greater majority of the General Assembly -- might not be more likely to interfere with than assist the organs of the United Nations in carrying out their peace maintenance functions. At San Francisco, the majority view then was apparently to leave it to the Security Council to decide what constitutes a threat to the peace, a breach of the peace, or an act of aggression. It seems to my delegation that events support the wisdom of this decision. The competent organs of the United Nations have dealt with difficult situations successfully without having at their disposal a definition of aggression. It is submitted that they have probably been able to do so with more facility than had there been a definition. A definition of aggression, at least in

the terms of those which had been proposed, would limit the discretion of the competent United Nations organs to determine the existence of aggression in the light of all the circumstances surrounding a particular case. A definition of aggression would call for assessing the blame concomitantly with deciding upon the action required to preserve the peace. This might encourage disagreement within the competent organ of the United Nations, thus delaying action which might well be vital for the maintenance of international peace. A definition might, where immediate action were necessary and actually forthcoming, result in the competent organ of the United Nations treating in a precipitate manner the question of who was the aggressor and might even result in a wrong determination of the question. In some cases it may not even be politic to attempt to determine who is the aggressor while tempers are still hot. While, of course, aggression ought not to go unchastised, determining who is the aggressor ought not to impede the United Nations in maintaining international peace and security. In this age, when a spread of hostilities would threaten the whole world with catastrophe, the all-important first step is that the United Nations be able to take quickly effective action aimed at restoring the peace. I think for the reasons mentioned that a definition of aggression might hold dangers for achieving this end. These are the most important objections in the view of my delegation to the various definitions of aggression which have been proposed.

There are other objections, of course, which apply in varying degrees to the various definitions. Most definitions seem in their turn to use terms which would be required to be defined themselves. Since it is impossible to cover all cases in an enumerative or mixed type of definition, there would always be a tendency for the competent organs of the United Nations to place less significance on acts not enumerated. In similar vein, such a definition would be capable, in some instances, of being used to support a plea of justification where a particular act might not be comprehended within the four corners of the definition, and so could conceivably encourage rather than discourage a state bent on aggression. A general definition, on the other hand, would be likely to do no more than duplicate existing provisions of the Charter.

To sum up, Mr. Chairman, my delegation submits that the record of the discussion of the question of the definition of aggression testifies to wide and seemingly irreconcilable disagreement on whether and how aggression should be defined. We submit also, for reasons already suggested, that a definition might well hamper rather than assist the competent organs of the United Nations in preserving or restoring the peace. In the circumstances it seems to my delegation that further discussion of this question -- for the time being, at any rate -- should be set aside. I am mindful that some delegations do consider that it would adversely affect the prestige of the Committee and the General Assembly to do no more than postpone the consideration of the question for several years. I wonder if we are not more likely to bring discredit on the Organization by continuously spending effort, time and money on a project which, given present circumstances, appears on all the evidence to be unlikely to be successful.

My delegation can see no utility in referring the question back to yet another special committee. We also consider that we should not complicate the good work of the International Law Commission by again referring the question

to the Commission. In fact, as I have already said, we can see no useful purpose to be served by pursuing this question further, at least for the time being. It has been suggested that the question of defining aggression might be referred to a Charter Review Conference. Since the term sought to be defined is a term used in the Charter, it would not seem inappropriate to consider the question of defining aggression in the context of the Charter, at such a Conference.

While my delegation can see no present prospect of reaching a general agreement on one definition, and while, as I have said, we have reservations concerning the effect of the definition on the functions of the competent organs of the United Nations, we should, out of consideration for those members who consider that a definition is desirable, be prepared to consider a suitable recommendation which would bring this matter forward for reconsideration at a Charter Review Conference.

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