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DEFINITION OF AGGRESSION

Statement to be made in the General Assembly by the Canadian Representative, Mr. Hugh Faulkner, M.P., on December 1, 1967, on the Need to Expedite the Drafting of a Definition of Aggression in the Light of the Present International Situation (Item 95)

Mr. Chairman,

I do not wish to speak at any length on this item at the present time. My Delegation intends to present Canada's views in greater detail when this subject again receives consideration in the Sixth Committee, the forum which in our views is the more appropriate one for discussing it. Nevertheless there are certain remarks of a preliminary nature which we would like to place on record at this stage.

The search for a generally acceptable definition of aggression has been going on now for a considerable time. It can be traced back at least to the earliest days of the League of Nations. For over forty years, therefore, it has proved impossible to achieve any broad measure of agreement on a definition of aggression. This surely indicates the extreme complexity of the problem. It is no wonder that it has been the clearly-expressed view of certain delegations in the past that such a definition simply is not possible. A definition would have meaning only if agreed upon by the Security Council, including all its permanent members, and by at least a two-third majority in the General Assembly. The past history of this question gives little reason to hope that this will prove possible.

On previous occasions, notably during the Seventh and Twelfth sessions of the General Assembly, Canada expressed certain reservations about the possibility of obtaining general agreement on a single definition of aggression and in fact questioned the desirability and utility, in light of international atmosphere, of continuing the search for such a definition. Nothing has happened during intervening years to cause us to change this opinion, though, as in the past, Canada would, of course, not wish to oppose any decision in favour of making a renewed effort to draft a useful definition.

We remain unconvinced, however, on the basis of past experience, that it will prove possible to reach consensus on a definition.

Mr. Chairman, my delegation appreciates fully that the lengthy consideration already given by the International Community to this question does not necessarily indicate that it will never be possible to define aggression adequately. Studies of the past, as reflected in the related international legal literature have contributed significantly to a greater understanding of the difficulties involved. An illustration of the practical problems in defining aggression is that most of the proposed definitions submitted on the subject have contained terms that themselves require definition. A further continuing and thus far insurmountable problem has been that an emunerative definition does not prove sufficiently comprehensive, while a general definition is of little utility and does nothing more than duplicate the provisions of the Charter. There is, therefore, no compelling functional reason for a definition. Indeed, a danger arising out of both approaches is that an aggressor might be able to justify his aggressive acts by arguing that they did not fall within the definition of aggression.

The framers of the Charter were very careful to leave it to the competent organs of the United Nations to decide what constituted a threat to peace, a breach of peace, or an act of aggression. It still seems to my delegation that it would be unhelpful if the unfettered discretion now exercised by these organs in determining the existence of aggression should be limited or unduly complicated by a definition which of necessity would call for assessing the blame at the same time as deciding upon effective action required to preserve peace. Moreover, there would be a danger that differing interpretations regarding the definition, might delay action which might be vital for maintenance of international peace. It remains our view that a definition would be more likely to interfere with than to assist the competent organ of the United Nations to take quick and effective action to ensure the maintenance of peace. A definition could have the unintended effect of limiting the Security Council's discretion in determining the existence of aggression in light of the special circumstances surrounding each particular case. At the San Francisco Conference in 1945, the majority view had been to leave it to the Security Council to decide what constituted a breach of the peace or an act of aggression. Events have supported the wisdom of this decision.

The ability of the United Nations to deter aggression or where aggression has taken place, to assist in peaceful settlement and to bring to an end aggression itself, is of much greater import to the survival of the organization than is a definition. It is our considered view, therefore, that the importance of "expediting" the drafting of a definition of aggression is perhaps being somewhat over-stated. After all, member

states of the United Nations have been asked on several occasions in the past to submit to the Secretary-General whatever comments they might wish to make on the question of defining aggression. Few (indeed I believe only some 25 in all) have actually done so.

Canada was not persuaded by the arguments advanced in the General Committee that this item should be discussed entirely either in the First Committee or in Plenary. It is our firm opinion that this is not the sort of subject which can be furthered by being debated in a predominantly political context. Those who have read the reports of the Fourth Session of the Committee established under the United Nations General Assembly Resolution 1181(XII) which were published in A/AC.91/Series, as SR's 23 to 28 inclusive, will certainly have to agree with the Representative of Ecuador on that Committee, who during the 25th meeting on April 11 of this year pointed out that this whole subject has been "made an arena for cold war polemics". I very much regret that the same thing has occurred during the course of this present debate. My delegation is of the opinion that if any success in reaching general agreement on a definition is to be achieved this will probably not be possible except as a result of the most careful non-political deliberations of an essentially legal nature.

Before I conclude, Mr. President, I would like to refer to the specific proposal made by the USSR as part of Document A/6833 of September 22 for the establishment of yet another special committee - a special committee whose task it would be to draw up a draft definition of aggression to be submitted to the 23rd Session of the United Nations General Assembly. Our views on this aspect of matter are rather like those expressed by, I believe, the Distinguished Permanent Representative of Bulgaria, when he was speaking in the First Committee on the Maltese Item on November 15, and there argued against "a hasty and unjustifiable proliferation of Committees". Canada believes that to establish at this juncture another committee charged specifically with defining aggression is not desirable. It is our view - a view expressed by the Canadian Representative on April 7, 1965, during the Third Session of the Committee established under the United Nations General Assembly Resolution 1181(XII) that there exists a very close relationship between the search for an agreed legal definition of aggression and the work of the Special Committee on Friendly Relations, particularly as that work relates to a continuing consideration by the Special Committee of two Charter principles of the threat or use of force and non-intervention. It is our opinion that there are certain fundamental legal considerations common to all three concepts: those of aggression; threat or use of force; and non-intervention. We, therefore, consider that no separate attempt to define aggression as it were <u>in vacuo</u> ought to be made. We believe instead that if a further attempt is to be made to reach agreement on a definition of aggression that definition ought preferably to come subsequent to conclusion of

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deliberations of the Special Committee on Friendly Relations. This Committee, which met first in 1964, has the necessary legal expertise and experience to keep in mind both the inter-relationship between these three concepts, their all important relation to the Charter as a whole and their progressive codification as expressions of international law.