

External Affairs
Supplementary Paper

No. 54/4OUN9/17 QUESTION OF DEFINING AGGRESSION

Text of statement on November 3, 1954, by Mr. Charles Stein, Q.C., Canadian Representative in the Sixth Committee at the ninth session of the United Nations General Assembly, New York, on agenda item 51 - Question of defining aggression: Report of the Special Committee on the Question of Defining Aggression

Note: The text of the resolution adopted by the Committee and the results of the voting are included at the end of the statement.

In 1952 before this Committee the Canadian representative stated that the Canadian Government was not opposed to having a definition but that it had "serious misgivings whether...a definition is possible, and, even if it were possible, whether it in fact would serve a useful purpose in furthering the aims of the Charter".

Undoubtedly the present debate indicates that the area of disagreement over a formula for a definition of aggression has narrowed considerably though, as has already been pointed out, there are still important differences of opinion among those who have proposed formulae. We believe however that the question of possibility cannot but be considered in relation to the usefulness of a definition.

We are still doubtful whether any definition could really be helpful to the competent agencies of the United Nations in deciding for the purposes of the discharge of their peace maintenance functions whether an act of aggression had been committed; indeed some definitions might well constitute an obstacle to them. We believe that under the relevant provisions of the Charter no doubt really exists as to what constitutes aggression "in the abstract", so to speak, and that the difficulty arises only in appreciating the facts and circumstances of each case. We doubt that any definition can effectively remove or remedy this difficulty and we feel, in fact, that any definition would fail to achieve its proper purpose unless it safeguarded the present broad discretion of the Security Council and the General Assembly to assess and decide upon all the factual elements of the case.

We believe that any definition to be really effective would have to be agreed upon by the General Assembly and the Security Council, including the permanent members of the Council, and so as not to pose an obstacle to these organs it must not restrict the wide discretion which we consider the Security Council and the General Assembly possess. We submit that both these organs, under their present constitution embodied in the Charter, have the power to decide in each concrete case and in the light of the particular facts and circumstances of the case whether an act of aggression has been committed by a state. Any definition which would "automatically" brand certain acts or classes of acts as aggression, might, we suggest, seriously hamper these bodies in maintaining or restoring the peace, as the case may be, which function necessarily calls for the exercise of very broad political discretion. In our view, furthermore, in order to be in harmony with the scheme of the Charter, more particularly with Articles 39 and 51, any definition of aggression must be restricted to the notion of armed attack and must not embrace or be applicable to any other form of aggression so-called.

We would also like to point out that any definition of aggression can hardly be examined otherwise than in the light of any proposal for a Code of Offences against the peace and security of mankind and for some international criminal jurisdiction to interpret and enforce such a code. This in turn again raises the question of harmonizing such a jurisdictional scheme with the existing functions and powers of existing organs of the United Nations under the Charter.

In conclusion whilst my delegation entertains the doubt above expressed as to the helpfulness of any definition to the competent organs of the United Nations in deciding whether an act of aggression has occurred, it is not opposed to a definition which would appear likely to be agreed upon by the General Assembly and the Security Council, including the permanent members of the Council, which would not be at variance with the existing scheme of the Charter and which would meet the other tests I have outlined. Any other definition, or one which had very limited approval, would we think, instead of helping to ensure international peace and security, have a tendency towards the opposite effect.

Voting Results Following is the text of a resolution (U.N. Doc. No. A/C.6/L.337 Rev.1) adopted by the Sixth Committee on November 10, 1954, by a vote of 33 in favour to 3 against (United States, Australia and Brazil), with 14 abstentions (including Canada and the United Kingdom); and in a plenary session of the General Assembly on December 4, 1954, by a roll-call vote of 43 in favour (including Canada) to 3

against (Australia, South Africa and the United States), with 11 abstentions. (Three delegations were absent - Egypt, El Salvador and Panama.)

Text of
Resolution

The General Assembly,

Recalling its resolutions 599 (VI) and 688 (VII),

Considering that the discussions to which the question of defining aggression gave rise at the ninth session of the General Assembly have revealed the need to co-ordinate the views expressed by the States Members,

1. Decides to establish a Special Committee comprising one representative of each of the following States Members, which will meet at headquarters in 1956;

2. Requests the said Special Committee to submit to the General Assembly at its eleventh session a detailed report followed by a draft definition of aggression, having regard to the ideas expressed at the ninth session of the General Assembly and to the draft resolutions and amendments submitted;

3. Decides to place the question on the agenda of the eleventh session of the General Assembly.

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