

proposal to make further attempts to define aggression on the basis of each of the texts submitted by other members.

The question was later reconsidered at the request of Mr. Scelle (A/CN.4/L.19 and Corr.1), who submitted a general definition and proposed that aggression should be explicitly declared an offence against peace and security. On the basis of this and other proposals, the Commission inserted the following provisions in article 2 of the draft Code of Offences against the Peace and Security of Mankind:²⁴

"The following acts are offences against the peace and security of mankind:

"(1) Any act of aggression, including the employment by the authorities of a State of armed force against another State for any purpose other than national or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations.

"(2) Any threat by the authorities of a State to resort to an act of aggression against another State."

2. Consideration by the General Assembly at its Sixth Session

a. GENERAL DISCUSSION IN THE SIXTH COMMITTEE

The Sixth Committee discussed the question of defining aggression at its 278th to 295th meetings from 5-22 January 1952.

The Committee's discussions were concerned primarily with the question as to whether it was possible and desirable to define aggression.

Some representatives, in particular those of Australia, Belgium, Greece, India, the United Kingdom and the United States, thought that the General Assembly should not attempt to formulate a definition of aggression, holding that no satisfactory definition could be found. In this connexion, the representative of Greece put forward the view he had expressed in the International Law Commission that aggression was a "natural notion" which did not lend itself to definition.

These representatives argued that a definition attempting to enumerate all possible acts of aggression would necessarily leave out some acts which ought to be included, and would thus be positively dangerous. Attention was drawn to the constant state of evolution of acts of aggression, and also to the importance of indirect aggression by subversive action. To adopt an incomplete enumeration, it was stated, would constitute an invitation to potential aggressors by showing them how they could accomplish their aims without

actually being branded as aggressors, since they could avoid coming within the letter of the definition and claim that they were technically justified.

An abstract and general formula, on the other hand, it was stated, would use terms which themselves required definition and would be too wide and vague to be useful. To combine the enumerative and abstract methods would, it was stated by the representatives of Belgium and the United Kingdom, only cumulate their disadvantages.

Those representatives opposing a definition considered that, in accordance with the Charter, the United Nations organs called on to determine the aggressor in case of international conflict should have full discretion to consider all the circumstances of each case. It was necessary to take account of the circumstances in order to judge whether there was aggressive intent; a similar act might in one case constitute aggression and in another be a legitimate measure of self-defence. This distinction could not be provided for in a definition, which might also include certain acts which, if considered in their proper context, would not be considered by the international community as acts of aggression at all. Moreover, it was considered, a definition might actually hamper the Security Council by causing less stress to be placed on acts not included in it and by giving an opportunity to an aggressor State to cause delays.

In certain cases, where acts of aggression had occurred, the representatives of Belgium and the United Kingdom considered, it might also be politic to refrain from naming a State an aggressor if there seemed to be a prospect of a just settlement without recourse to hostilities; this would be difficult if certain acts were listed in advance as constituting aggression. Other representatives, in particular the representative of the USSR, opposed this view, stating that it was equivalent to condoning aggression.

Some representatives, while not opposed in principle to the continuance of efforts to reach a definition, were doubtful of its value, or considered that the political situation of the world made it at any rate inopportune to undertake the task of defining aggression for the time being. These included the representatives of Argentina, Brazil, Canada, Denmark, Israel, the Netherlands, the Philippines, Sweden and Uruguay.

Certain representatives, including those of Israel, Uruguay, the United Kingdom and the United States, emphasized that what was needed was not to define aggression but to ensure that it should

²⁴ For draft code of offences, see p. 842.