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AGGRESSION -- MOST SERIOUS OF INTERNATIONAL CRIMES.

ON THE PROBLEM OF DEFINING AGGRESSION

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AGGRESSION -- MOST SERIOUS OF INTERNATIONAL CRIMES

ON THE PROBLEM OF DEFINING AGGRESSION

CHAPTER I. CONDEMNATION OF AGGRESSIVE WARS AND THE LABELING OF AGGRESSION AS AN INTERNATIONAL CRIME

The concept of aggressive war as in international crime arose toward the end of the World War I 1914-1918. Previously international law had provided only for a certain degree of humanization of waging war and possibly for its prevention. The Hague Conventions of 1899 and 1907, for example, contained certain ideas on the peaceful settlement of international conflicts.

Article 1 of the First Convention of 1899 reads: "With a view to preventing, if possible, recourse to force in mutual relations among states, the signatory powers agree to apply all their efforts to the end that the peaceful settlement of international disagreements be insured." With that aim the Convention recommended that states involved in a dispute have recourse to mediation and good offices (Articles II, III, VIII).

Article IX of the Convention contained the recommendation that the parties who are unable to resolve international disputes by diplomatic means create, insofar as circumstances permit, an international fact-finding commission to determine the basis of the dispute. However the reports of the commission were not binding on the states involved in the dispute (Article XIV).

The Hague Convention of 1907 on the peaceful settlement of international conflicts made no substantial changes in the solution of these problems.

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The first state act labeling aggressive war as an international crime was Lenin's Decree of Peace, adopted by the Second All-Russian Congress of Soviets on 8 November 1917. Lenin termed aggressive war, i.e., a war with the aim of seizing foreign territory and enslaving foreign peoples, one of the greatest crimes against mankind. "Continuation of this war for the purpose of dividing captured weak peoples among the stronger and richer nations," the decree said, "is regarded by the Government as one of the greatest crimes against mankind."

The Decree of Peace did not limit itself to this point. In its spirit, the decree also regarded as illegal any acts designed to retain other nations by force within the limits of a given state irrespective of when such nations had been acquired by force or where they might be situated -- "in Europe or in distant overseas countries."

These principles of the decree were of great significance in international law. They did not represent an international legal standard for labeling aggressive war as a crime, since the decree was simply a unilateral declaration by a single country. But the principles defined the foreign policy of the Soviet state. Furthermore, the democratic principles proclaimed by the Decree on Peace, notably the principle of inadmissibility and criminality of aggressive war, and the systematic application of these principles by the Soviet state in its relations with other states of the world had a substantial influence on the development of international law along new democratic lines.

The peoples of the world suffered colossal human and material losses in World War I. It was therefore natural that even during

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that war voices arose with increasing frequency calling for punishment of those guilty of having started and waged that war.

Under the pressure of world public opinion the Allied powers created at different times special fact-finding commissions to collect and systematize data on war guilt. Most of the attention was devoted to facts of gross violation by Germany of the rules and practices of war.

The question of punishing those guilty of having started and waged war was first posed during the work of the Commission on War Responsibility, the so-called Commission of Fifteen, created 25 January 1919 at the Paris Peace Conference.

The Commission of Fifteen did not consider as its aim the establishing of responsibility for the starting and waging of aggressive war in general, but limited itself to the study of questions relating to responsibility of the Central Powers, particularly Germany, for having started and waged the war of 1914-1918.

The Commission, citing the absence in international law of rules prohibiting recourse to war as a means of international policy and of settling international disputes, concluded that Germany could not bear responsibility for the war.

In the opinion of the Commission, "aggressive war cannot be regarded as an act directly contradicting the positive law," i.e., the existing international law (American Journal of International Law, N 1 and 2, 1920, page 118). It merely established the fact that Germany had violated the neutrality of Belgium and Luxembourg since the neutrality of these states had been provided by international accords of 1839 and 1867 to which Germany was a signatory.

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Nevertheless, citing the absence of appropriate sanctions against states who violated these accords, the Commission regarded Germany's acts as noncriminal and nonpunishable.

However the Commission of Fifteen could not completely bypass the problem of punishment for the starting of an aggressive war. The peoples of the world demanded the adoption of effective measures against repetition of aggression either by Germany or by any other state, and these demands were spurred to a considerable degree by the extraordinary popularity enjoyed by the democratic principles proclaimed by the Soviet Government in the Decree on Peace.

The majority of the Commission regarded it necessary for the future to establish definite international sanctions for the committing of an act of aggression and recommended the creation of a special international organ that would apply such sanctions.

In the Treaty of Versailles, four articles (227 to 230) were devoted to the question of the Allied Powers' prosecuting of German war criminals, including the German Emperor, but nothing was said about Germany's responsibility for having started and waged the aggressive war of 1914-1918.

The Convenant of the League of Nations, which was a component part of the Treaty of Versailles, not only did not prohibit aggressive war, but did not even condemn it unconditionally.

Point 1 of Article 12 of the League Covenant states that if a dispute arose among members of the League that might lead to war "they will submit it either to arbitration or to judicial settlement or to inquiry by the Council." The same article also

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states that members of the League should in no case resort to war before expiration of a 3-month period after the arbitration award or the judicial decision or the report by the League Council.

The League Covenant thus formally imposed on the members certain obligations for the peaceful settlement of international conflicts, but in actuality legalized war. Thus, in accordance with Point 2 of Article 12 of the Charter, an arbitration or court decision on conflicts among states was to be made within a "reasonable" period, and the report of the Council within 6 months from the date of submission of the dispute. This meant that the parties to the dispute could resort to war if a decision in the dispute was delayed or the Council failed to report within 6 months. In that case, war was not to be regarded as a violation of the Covenant of the League of Nations. The fact that the Covenant sanctioned the use of force in disputes among members is also borne out by the provisions of Article 15 of the Covenant defining the degree to which Council decisions were binding on the parties to a dispute.

Point 6 of that article obligated League members not to resort to war only in case the report of the Council was adopted unanimously (the votes of parties to the dispute were not included in establishing this unanimity); if the Council was not unanimous, the League members retained the right to act as they saw fit "to support right and justice" (Point 7 Article 15)

Attempts of the League of Nations to eliminate these major loopholes in the Covenant were unsuccessful because the draft agreements on mutual assistance (1923) and the draft agreement on the peaceful settlement of disputes (1924) that were adopted by the Assembly of the League did not have the force of law. But these

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drafts are of interest because they labeled aggressive war for the first time as an international crime and because they attempted to define the concept of aggressor. Article 1 of the draft agreement on mutual assistance reads: "The High Contracting Parties assert that aggressive war constitutes an international crime and undertake the solumn obligation not to commit such a crime."

In the second draft, known as the Geneva Protocol on the peaceful settlement of international disputes, the member states agreed in no case to resort to war either among themselves or against any other state that was prepared to undertake all obligations devolving from the protocol (Article 2).

The protocol, which was signed in Geneva on 2 October 1924 by 19 states, defined the concept of agressor. Article 10 reads: "An aggressor is any state that resorts to war in violation of obligations provided in the Covenant (of the League of Nations - [author's note]) or in the present protocol." "Violation of the status of a demilitarized zone is regarded as equivalent to recourse to war." A state that refused to abide by decisions of the Council or the Assembly of the League of Nations was also regarded as an aggressor (Garantii bezopasnosti po Statutu Ligi Natsiy [Security Guarantees under the Covenant of the League of Nations], published by NKID [People's Commissariat of Foreign Affairs], Moscow, 1937, pages 81, 109, 113).

The first international act laying the basis for labeling aggressive war as an international crime was the Declaration on Aggressive Wars adopted unanimously by the Eighth Assembly of the League of Nations on 24 September 1927.

"The Assembly," said the Declaration, --

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"Recognizing the solidarity linking the international community,

"Inspired by a firm desire to insure the maintenance of universal peace,

"Noting that war should never serve as a means of settling disputes among states and that it consequently constitutes an international crime;

"Considering that a solumn repudiation of any aggressive war would be able to create an atmosphere of general confidence favorable for the success of work undertaken with a view to disarmament;

"Declares:

"1. Any aggressive war is and will be prohibited;

"2. All peaceful means should be used to settle any kind of dispute arising between states.

"The assembly declares that member states of the League of Nations are obligated to conform to these 2 principles" (Garantii bezopasnosti po Statutu Ligi Natsiy, op. cit., page 213).

The declaration was of no practical importance. Suffice it to say that throughout the existence of the League of Nations neither the League nor individual member states of the League referred to that document in evaluating or condemning even such international events as the Japanese-Chinese conflict of 1931-1933, the Italian-Ethiopian conflict of 1935-1936, the armed German-Italian intervention in Spain in 1936-1939 and others.

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On 27 August 1928, upon the initiative of the United States and France, 15 states in Paris signed the so-called Briand-Kellogg Pact, which was subsequently joined by 48 additional states (the original signatories were the United States, France, Britain with her Dominions and India, Germany, Italy, Japan, Belgium, Poland and Czechoslovakia).

The pact consists of a preamble and 2 articles.

The preamble says that states signatories to the pact express their confidence "that any changes in their mutual relations must be sought only through peaceful means and must be carried out legally and peacefully and that any signatory power that would still try to promote its national interests by resorting to war must be deprived of the privileges devolving from the present agreement."

In Article 1 the signatory states in the name of their peoples solemnly declare that they "condemn recourse to war for the settlement of international disputes and repudiate such an approach in their mutual relations as a tool of national policy." Article 2 says that the settlement or solution of all disputes or conflicts that can possibly arise between states, no matter what their character or their origin may be, "must always be sought only through peaceful means" (Sbornik deystvuyushchikh dogovorov, soglasheniy i konventsiy, zaklyuchennykh s inostrannymi gosudarstvami [Collection of Effective Treaties, Agreements and Conventions Concluded With Foreign States], Issue V, published by NKID, Moscow, 1930, pages 5, 6).

The pact suffered from a number of major shortcomings. These shortcomings were noted by the Soviet Government in its note of 31 August 1928.

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The Soviet Government pointed to the inadequate definition and clarity in Article 1 in the formulation of the prohibition of war, giving rise to different and arbitrary interpretations.

The Soviet Government considered it essential that the prohibition apply to any international war, whether it be a tool of "national policy" or serve other aims, for example wars aiming at the supression of a national liberation movement. And not only wars in the formal juridical interpretation, i.e., assuming a declaration of war, but military actions such as, for example, an armed uprising, a blockade, the military occupation of foreign territory, foreign ports and so forth.

"The history of recent years," said the note in that connection, "knows a number of this type of military actions, which have inflicted tremendous losses to the peoples. The Soviet republics themselves were the object of such an attack, and at the present time the 400-million-strong Chinese people is suffering similar attacks. (The reference is to the armed Japanese intervention in China -- [author's note]). Furthermore, such military actions frequently develop into major wars that can no longer be stopped" (Izvestiya, 1 September 1928).

The Briand-Kellogg Pact does not say that aggressive war is an international crime; in other words it completely ignores the declaration of the League of Nations of 24 September 1927.

While not overestimating the significance of the pact, the Soviet Union nevertheless felt that it imposed some obligations of a peaceful character on its members and joined the pact on 6 September 1928, being the first to apply it with respect to the Baltic republics, Poland, Rumania and Turkey. The protocol

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making the agreement effective was signed in Moscow on 9 February 1929. Turkey joined the protocol on 1 April 1929.

It should be noted that both before and after the signing of the Pact of Paris [Briand-Kellogg Pact] various states of the world signed a number of international agreements guaranteeing the security of the members. Some of these agreements are superior to the Pact of Paris in terms of their aims and clarity of formulation.

For example, in the treaty of neutrality and nonaggression signed in Moscow on 28 September 1926 between the Soviet Union and Lithuania, the contracting parties mutually undertake to "respect under all circumstances the sovereignty and territorial integrity and inviolability of the other" (Article 2), and "to refrain from any kind of aggressive acts against the other party" (Sbornik deystvuyushchikh dogovorov..., Issue IV, NKID, Moscow, 1928, page 19).

The nonaggression pact signed between the Soviet Union and Poland on 25 July 1932 is especially noteworthy among the international accords concluded by the Soviet Union after having joined the Briand-Kellogg Pact. The Polish accord both expands and supplements the Pact of Paris, which became effective with the protocol of 9 February 1929, while at the same time eliminating the shortcomings of the Pact of Paris.

"Both contracting parties," says Article 1 of the Soviet-Polish accord," noting that they have rejected war as a tool of national policy in their mutual relations, undertake mutually to refrain from any aggressive acts or attacks one on the other, either individually or in conjunction with other powers.

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"An act contravening the obligations of the present article would be any act of force violating the integrity and inviolability of the other contracting party, even if such acts were undertaken without a declaration of war and to avoid all the possible manifestations of war."

Article 2 of the accord stresses that if "one of the contracting parties undertakes aggression against a third state, then the other party will have the right to denounce the present treaty without warning" (Sbornik deystvuyushchikh dogovorov..., Issue VII, Gosizdat. "Sovetskoye zakonodatel'stvo," 1933, page 13).

The treaty of 25 July 1932 eliminated defects in Soviet-Polish relations deriving from inexactness and lack of proper formulation of the Pact of Paris.

The 2 parties did not limit themselves to a mere repetition of the formulation of the Pact of Paris concerning the repudiation of war as a tool of national policy, but went further by undertaking mutually to refrain from any aggressive acts or attacks one on the other, either individually or in conjunction with other powers and by granting the right to either party to denounce the treaty if one of the contracting parties undertakes aggression against a third state.

The 2 parties also made it clear that by "rejection of war" they meant rejection of any aggressive acts or attacks one on the other; and rejection of any act of force, violating the integrity and inviolability of territory and political independence, even if such acts are undertaken with a declaration of war.

The same idea was expressed in the convention on the definition of aggression, signed on the initiative of the Soviet

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Union with 11 states on 3 and 4 July 1933. The preamble of that convention says that the contracting parties hold that the "Briand-Kellogg Pact of which they are members, prohibits any aggression."

We know that the Pact of Paris did not prevent the many provocations of the imperialist powers directed against the Soviet Union. We also know that a few years after the signing of the Pact of Paris Japan invaded China and seized Manchuria, Italy annexed Ethiopia, and Germany, Italy, and Japan started the Second World War of 1939-1945, which inflicted colossal human and material losses on many peoples of the world.

Nevertheless, in spite of serious shortcomings of the Pact of Paris, in one respect its importance is beyond dispute: its provisions served as a legal basis for the punishment of the chief German and Japanese war criminals, who were tried for having prepared, started and waged an aggressive war. In May 1945 the United Nations War Crimes Commission adopted a resolution that acknowledged the provisions of the Briand-Kellogg Pact to be a sufficient basis for trying the chief German war criminals. "The aim and intent of the Briand-Kellogg Pact, signed 27 August 1928," says the resolution, "was that any person in the service of a state member of the pact who violated the provision of the pact condemning recourse to war with the aim of settling disputes between states and rejecting war as a tool of international policy with respect to members of the pact bore personal responsibility for such acts. In view of this, it is found that the aggression of the Axis Powers, which followed the signing of the present pact, violated its provisions and that persons in the service of the Axis Powers bear personal responsibility for these acts and may

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be tried and sentenced by a court of any of the United Nations or any other competent tribunal, depending on who has present control over these persons" (UNWCC, Doc. M. 59, 3-V-45; Doc. C. 104, 4-V-45). It is noteworthy that both in the speeches of the prosecutors and in the sentences of both tribunals the Pact of Paris was given an interpretation that increased in many respects its importance in the field of international law.

For example, Hartley Shawcross, chief British prosecutor at the Nuremberg trial, said in his opening speech with reference to the Pact of Paris: "In that accord rejecting war, the entire civilized world denied that war was a legal means of passing new laws or amending them. The right to wage war was no longer inherent in sovereignty...after inclusion of the Pact of Paris in the collection of statutes aggressive war was in contravention to existing international law" (Nyurnbergskiy protsess [The Nuremberg Trial]. Collection of materials, Vol I, Gosyurizdat, Moscow, 1954, page 161).

The sentence of the Nuremberg tribunal states in the section on "The Legal Ground Deriving from the Statute:" "In the opinion of the Tribunal, a solumn rejection of war as an instrument of national policy necessarily assumes that such a war is illegal under international law and that those who plan such a war with its inevitable and terrible consequences, in so acting, commit a crime.

"War to settle international contradictions, undertaken as an instrument of national policy, obviously includes aggressive war. Consequently such a war is an illegal war under the pact" (Nyurnbergskiy protsess... Vol II, pages 989-990).

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The concept of aggressive war as the most serious of international crimes was further developed and justified in documents of world-wide historical importance, such as the Charter of the United Nations and the Statutes of the Nuremberg and Tokyo international military tribunals. The UN Charter, signed in San Francisco on 26 June 1945, states that the "UN pursues the aim:

"1. Of maintaining international peace and security and, with that aim, of taking effective collective measures to prevent and eliminate threats to peace and suppress acts of aggression or other violations of the peace" (Point 1 of Article 1 of the UN Charter); all UN members, says Point 4 of Article 2 of the Charter, will refrain in their international relations from the threat of force or its use either against the territorial inviolability or political independence of any state, or in any other way noncompatible with the aims of the UN.

Article 6 of the Statute of the International Military Tribunal states: "The following acts or any one of them is a crime subject to jurisdiction of the Tribunal and involving individual responsibility:

"(a) Crimes against the peace, specifically: the planning, preparation, starting or waging of aggressive war or a war in violation of international treaties, agreements or assurances, or participation in a general plan or plot designed to carry out any of the above-mentioned acts."

These principles are of extreme importance in international law; now that they have been accepted, aggressive war is no longer regarded as an institution under international law and is being qualified as an international crime for the perpetration of which a state and its officials must be severely punished.

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The Statute of the International Military Tribunal in Nuremberg and its sentence represent a most valuable contribution to the efforts of the masses of the world's peoples to maintain and insure a stable universal peace and security and to prevent a new aggressive war.

The principles proclaimed by the Nuremberg International Military Tribunal were confirmed in a resolution adopted by the UN General Assembly on 11 December 1946. The resolution says:

"The General Assembly... takes note of the Agreement to establish an International Military Tribunal to try and punish the chief war criminals of the Axis countries of Europe, signed in London on 8 August 1945, and the annexed Statute, as well as the fact that similar principles were adopted in the Statute of the International Military Tribunal for the trial of the chief war criminals in the Far East, which was proclaimed in Tokyo on 19 January 1946.

"Therefore

"It confirms the principles of international law accepted by the Statute of the Nuremberg Tribunal and expressed in the decision of the Tribunal" (Rezolyutsii, prinyatyye General'noy Assambleyey na vtoroy chasti pervoy sessii s 23 oktyabrya po 15 dekabrya 1946 g. [Resolutions Adopted by the General Assembly in the Second Part of the First Session from 23 October to 15 December 1946], New York, 1947, pages 139-140).

The principles incorporated in the Statute of the Nuremberg International Military Tribunal and confirmed by the UN represent fundamental and firm standards of international law applicable to all states of the world.

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A major problem of international law at the present stage, requiring the attention of international lawyers of all countries of the world, is the definition of a generally acceptable concept of aggression. We know that the Statute of the Nuremberg tribunal does not contain any definition of the terms "aggression" and "aggressive war:" nor is there such a definition in the sentence of the tribunal.

However the existence in international law of a generally acceptable definition of aggression would greatly assist the UN in fulfilling its basic objective, entrusted to it by the peoples of the world, which is to maintain universal peace and insure international security.

Definition of the Concept of Aggression

The declaration of the Assembly of the League of Nations of 24 September 1927, which is the first document to declare aggressive war to be criminal and incompatible with international law, does not specify what is meant by the word "aggression" and does not define aggressive war. Nor were these matters clarified in the Preparatory Commission of the League of Nations on Disarmament in November 1927.

True, in April 1923, in connection with the debate of the draft treaty of mutual assistance, the League of Nations did offer for discussion questions relating to the sources for defining cases of aggression and to the criteria disclosing an impending aggression, but the discussion did not yield any positive results. Moreover, the permanent Consultative Commission, in submitting its opinion on the draft treaty of mutual assistance, expressed doubt concerning the possibility of defining the

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expression "case of aggression" because it found it difficult "to define this expression completely beforehand in the treaty from the military point of view, especially since the question is often at the same time of a political character" (Garantii bezopasnosti po Statutu Ligi Natsiy, op. cit., page 64). The absence of such a definition reduced the effectiveness of the Covenant of the League of Nations and of the Briand-Kellogg Pact and provided favorable conditions for a would-be aggressor. There was a definite need for working out basic principles that would guide an international organ in defining aggression, in establishing a difference between aggression and self-defense and in condemning any justifications for attack that are usually offered by aggressors (a desire to exploit the natural resources of a given territory, violations of some international agreement, measures taken by some state that infringe on the material interests of another; revolutions, disorders and so forth).

Such principles were provided by the historic definition of aggression that was submitted by the Soviet Union to the Disarmament Conference on 6 February 1933 and subsequently provided the basis for the conventions signed by the Soviet Union with Afghanistan, Iran, Poland, Lithuania, Latvia, Estonia, Rumania, Turkey, Czechoslovakia and Yugoslavia on 3, 4, and 5 July 1933 (the so-called London conventions). (The signing of these conventions was proposed by the Soviet delegation during the International Economic Conference in London in July 1933. The proposal was addressed to all states taking part in the conference.) Finland joined the conventions in January 1934.

The Soviet definition of aggression said:

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1. A state will be labeled aggressor in an international conflict if it is the first to perpetrate one of the following acts:

(a) declares war on another state;

(b) invades with its armed forces the territory of another state, even without a declaration of war;

(c) bombards with its land, sea or air forces the territory of another state or knowingly attacks ships of aircraft of that state;

(d) lands or introduces its land, sea or air forces within the limits of another state without the permission of the government of that state or violates the conditions of such permission, specifically with regard to the time or expansion of the area of their stay;

(e) sets up a sea blockade of the coasts or ports of another state.

2. No considerations of a political, strategic or economic nature, whether a desire to exploit natural resources in the territory of the attacked state or to obtain any other kind of benefits or privileges, or a reference to the considerable amount of invested capital or other special interests in the given territory, or a denial that the given territory has the distinctive features of a state, can serve as justification for the aggression discussed in Point 1.

Specifically, an aggression cannot be justified by:

A. The internal situation of a state, such as:

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(a) the backwardness of a people in the political, economic or cultural sense;

(b) shortcomings ascribed to its ascribed to its administration;

(c) a danger that might threaten the life or property of foreigners;

(d) a revolutionary or counter-revolutionary movement, a civil war, disorders or strikes;

(e) the establishment or maintenance in a state of a given type of political, economic or social system.

B. Any acts, legislation and decree of a state, such as:

(a) the violation of international agreements;

(b) the violation of the rights and interests acquired by another state or its citizens in the field of trade, concessions or any other economic activity;

(c) the breaking of diplomatic or economic relations;

(d) an economic or financial boycott;

(e) a debt repudiation;

(f) a prohibition or limitation of immigration or a change in the status of aliens;

(g) the violation of privileges granted to official representatives of other states;

(h) a refusal to grant passage to armed forces en route to the territory of a third state;

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(i) measures of a religious or anti-religious character;

(j) frontier incidents.

3. In case of mobilization or concentration by a state of considerable armed forces near its frontier, the state that is threatened by such acts has the right to resort to diplomatic and other means enabling a peaceful settlement of international disputes. It may also take counter-measures of a military character, similar to those cited above, without however crossing the frontier (Sbornik dokumentov po mezhdunarodnoy politike i po mezhdunaronomu pravu [Collection of Documents in International Policy and International Law], Issue VI, NKID, Moscow, 1934, pages 61-62).

The Soviet definition of aggression thus listed not only acts that should be regarded as acts of aggression by one state against another but pretexts familiar in international affairs to justify aggression so that all these pretexts could be condemned beforehand.

The Soviet Government did not pretend to have submitted an absolute definition of aggression, anticipating all possible forms without exception. The draft convention on definition of aggression that was submitted for discussion by other states formulated merely the basic principles of inviolability of the established and accepted frontiers of a state, large or small, and of noninterference by a state in the internal affairs of another. The Soviet Government sought to provide a solution of the problem of security that could not become the object of diplomatic games but would be useful to small and powerful countries alike (see M. M. Litvinov, V bor'be za mir [In the Struggle for Peace], Partizdat, 1938, pages 16-17).

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The Soviet definition of aggression was widely discussed among lawyers and political leaders of many countries. It was favored by the delegations of various states represented at the Disarmament Conference. The Soviet draft was basically approved by the Committee of Security Questions of the General Disarmament Conference, consisting of representatives from 17 states, including the United States, Britain and France. "Such a definition," said the committee report, "would be valuable even in the absence of any kind of interference by international organs. It would to a considerable degree render more authoritative the prohibition of recourse to force, permitting public opinion and other states to judge with greater certainty whether that prohibition had been observed or not... In cases where international organs were called upon to determine the actual aggressor in a given conflict, the existence of a precise definition of the concept that could be applied by these organs would make it easier to designate the aggressor and there would be less risk that for some political reason an attempt could be made to shield or justify the aggressor by creating the impression that the rules to be applied in the given case had not been violated" (Sbornik dokumentov, op. cit., page 111).

The Soviet definition of aggression found expression in official international legal documents such as the Saadabad Pact, signed 8 July 1937 among Turkey, Iran, Iraq and Afghanistan (United States Department of State. Treaty Information, No 95, page 33), and in the Convention on Coordination, Dissemination and Enforcement of the treaty signed at the Inter-American conference in Buenos Aires (1 to 23 December 1936) by 21 American states.

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In the convention the term "aggressor" is applied to a state that perpetrates one of the following acts: if the armed forces of a given state illegally cross the land, sea or air frontiers of another state; if a state frontier is violated by bands organized in the territory of the given state; if the given state interferes in the domestic or foreign affairs of another state and so forth. The convention also says that "no considerations of a political, military, economic or any other nature may serve as an excuse or justification of aggression" (American Journal of International Law, Vol 31, No 2, Supplement, pages 62-63).

The definition of aggression offered by the Soviet Union was an important contribution to international law. Even some bourgeois lawyers had to concede this. "It may be said that the London conventions create the basis for a new legal order and essential conditions for a stable peace," wrote the Italian lawyer Caloiani in 1934 (Bulletin interparlementaire, 1934, No 1). The Rumanian lawyer Pella, in his plan for a universal legal code worked out in March 1935 also made use of the Soviet definition of aggression.

The Soviet definition of aggression was opposed at the Conference on Reduction and Limitation of Armaments in 1933 by representatives of imperialist powers such as Germany and Japan. The German representative, for example, spoke out against establishing beforehand too rigid a formulation of the rules defining aggression. "A dispute in all its phases is often so complex," he said, "that a rigid definition for determining the aggressor would be inadequate."

The same position was taken by the Japanese delegate. "In case of an armed conflict," he said, "the matter of determining

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whether aggression has taken place and who the aggressor is always presents a complex and delicate problem" (Records of Conference, Series D, t. 5. Minutes of the Political Commission, pages 7, 52, 54-55).

In the postwar period the question of defining aggression was debated first at the Fifth Session of the UN General Assembly (1950) and later at the Sixth (1951), Seventh (1952) and Ninth (1954) sessions. The International Law Commission and a special committee created for that purpose also tried to prepare a draft definition of aggression.

The Soviet delegation submitted its 1933 draft definition of aggression to the Fifth Session of the General Assembly. Subsequently it amended the draft to incorporate Point 5 of Article 2 of the 1933 London conventions on the definition of aggression, which applies the label of aggressor to a state that supports armed bands organized on its territory that invade the territory of another state, or refuses, on being requested by the invaded state, to take on its own territory any action within its power to deny such bands any aid or protection.

During the discussion of the Soviet definition of aggression in the Sixth Committee of the UN General Assembly and in the International Law Commission, a number of points of view on the definition of aggression were expressed.

The delegates of many countries stressed the need for defining aggression to maintain international peace and security. In this connection it was noted that such a definition would strengthen the system of collective security and assist the UN in fulfilling its basic objective, which is to fight for the defense

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of peace and against aggression. "It is quite essential," said the delegate of Thailand, "that before the machinery of collective security envisaged by Articles 41 to 46 of the Charter can be put into action the Security Council knows what the Charter understands by 'acts of aggression'". The representatives of Syria and Bolivia argued for the need of defining aggression in terms of the provisions of the UN Charter. "Is it conceivable," said the Bolivian delegate, "that the constitution of a country guarantees the inviolability of person and property without at the same time defining crimes against the person and property" (Ofitsial'nyye otchety General'noy Assamblei [Official Records of the General Assembly], Seventh Session, Sixth Committee, 335th Meeting, para 3, 27).

In the view of the majority of the delegates, a definition of aggression would be an important contribution to international law, would eliminate the possibility of arbitrary decisions by organs called upon to decide whether aggression had taken place, and would have a restraining influence on a potential aggressor.

"We definitely support any attempt to give a definition, to establish the character of aggression as a crime," said the representative of Mexico. "Actually the task is not to define aggression as an idea, as a well-known concept, but to formulate a legal principle according to which certain acts perpetrated by a state would be subject to a penalty" (Ofitsial'nyye otchety.., Sixth Session, 368th Plenary Meeting, page 528).

In the opinion of the Polish delegate, a definition of aggression, like any other act of condemnation, would serve as a serious warning to those who might succumb to temptation and commit an act of aggression. It would help "public opinion in

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distinguishing between the victim of aggression and the aggressor, between a just war and an unjust war" (Ofitsial'nyye otchety.., Sixth Session, Sixth Committee, 337th Meeting, para 34).

A similar thought was expressed by the French representative, who said a definition of aggression would enable public opinion to understand better the work of UN organs that were carrying out tasks entrusted to them under the Charter.

The need for a definition of aggression was also stressed by the delegates of Czechoslovakia, Yugoslavia, Colombia, the Dominican Republic, Cuba, Iran and other states.

The profound interest demonstrated by various states in the question of defining the concept of aggression is evidence of its extraordinary importance for the cause of universal peace and the security of peoples. The fact that after many years principles proclaimed in the Soviet definition of aggression were for the first time widely accepted by many states was explained by the struggle of the masses of the world's peoples for peace and against war.

The Second World Congress of Peace Partisans in its appeal to the UN unmasked attempts by aggressors to confuse the concept of aggression and thus to offer a pretext for foreign interference in the domestic affairs of other countries, and emphasized that no political, strategic and economic considerations and no motives related to the internal situation or to internal conflicts in a given state could serve as justification for armed intervention by one state in the affairs of another.

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"Aggression," said the appeal, "is a criminal act by the state that is the first to use armed force against another state under any pretext whatsoever."

In the discussion of the question of defining aggression, representatives of a number of states opposed the Soviet definition.

The following general considerations were usually offered against the Soviet definition of aggression:

(a) the impossibility of a legal definition of aggression in general;

(b) the impossibility of a complete and exhaustive definition of aggression by means of the detailed enumeration of acts of aggression, and

(c) the unsuitability and harmfulness of such a definition of aggression.

Jean Spiropoulos (Greece) delivered to the Third Session of the International Law Commission (16 May to 27 July 1951) a report entitled "The Possibility and Desirability of Defining Aggression." In it he offered his "proof" of the impossibility of obtaining a legal definition of aggression. Specifically, he offered the idea of a so-called "natural concept" of aggression, according to which the question of whether aggression had taken place would be decided not on the basis of legal considerations but on the basis of: (a) the fact that a state act of force had been committed and the given state had been the first to commit it, and (b) the fact that such an act of force had been committed with aggressive intent (animus aggressionis).

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The question of what degree of force constitutes aggression would be decided, according to the report, on the basis of the circumstances of each particular case rather than a priori, so that any legal definition of aggression, in the author's point of view, would be an artificial formulation that could never be sufficiently complete to cover all possible cases of aggression because methods of aggression are constantly changing.

What is the basis of the ideas of the author of this "natural concept of aggression?"

"When states are called upon to decide whether 'aggression, as understood in international law' has taken place," says Spiropoulos, "they base their decisions on criteria corresponding, so to say, to the 'natural' concept of aggression... rather than on legal formulations" (Doklad Komissii mezhdunarodnogo prava o rabote yeye tret'yey sessii s 16 maya po 27 iyulya 1951 goda [Report of the International Law Commission on the Work of Its Third Session from 16 May to 27 July 1951], New York, 1951, page 10).

By "natural concept" of aggression, Spiropoulos understands, first, the natural course of events, the given specific case of assumed aggression, and, second, an appraisal of these events by the governments of the states concerned. In other words, all objective indications that might serve as a basis for defining the aggression and the aggressor are, in the final analysis, made dependent on individual opinion or the arbitrariness of each interested government. "Such a theory," said the Soviet representative at the Seventh Session of the General Assembly, "is very convenient for governments that are supporting a policy of aggression. Such a theory obviously makes it possible to obtain a very 'flexible' definition of aggression, so flexible that it

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could be used to disrupt the bery basis of any definition of aggression and thus to cancel all meaning of or to reduce to nothing any international concept of aggression that might serve as a restraining factor with respect to aggression and as a basis for taking measures against an actual aggressor" (A. Ya. Vyshinskiy, Voprosy mezhdunarodnogo prava i mezhdunarodnoy politiki [Problems of International Law and International Politics], Gosyurizdat, Moscow, 1953, page 138).

The error of the Spiropoulos concept lies in the fact that it ignores all the cases of aggression that have actually taken place in international relations. Past acts of aggression constitute an important source for defining acts that states regard as acts of aggression.

To agree with Spiropoulos means to provide the future aggressor with the most favorable conditions, to untie his hands and to enable him to use the factor of surprise and to deal with his victim before his acts can be labeled aggression.

In opposing the Soviet draft definition of aggression, the US representative repeated arguments made by him in the First Committee in 1950, to the effect that no single definition of aggression can be exhaustive and that the omission of a given form of aggression in the definition would merely stimulate an aggressor to action. Furthermore, in the opinion of the US delegate, any attempt to give an exhaustive definition of aggression would be counter to the principles of the Charter, notably Article 39, which provides that the Security Council should determine the existence of any act of aggression and take any measures necessary to restore peace.

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The reference to the impossibility of giving an exhaustive definition of aggression is designed to interfere with any definition of aggression by means of an enumeration of acts of aggression.

It should be pointed out that the Soviet draft resolution does not contradict Article 39 of the UN Charter. In the first place, the USSR does not propose an absolute or exhaustive definition of aggression, as the US delegate said; secondly, a legal definition of aggression does not contradict Article 39 of the Charter, but, on the contrary, is in full accordance with it because a definition of aggression would be the means by which the Security Council could rapidly and correctly determine the aggressor, which in turn would enable it to take speedy and decisive measures to halt the aggression. This is a point to which the French delegate referred. "Article 39 of the Charter," he said, "merely says that the Security Council will determine the existence of an act of aggression. This means that the concept of aggression is presumed to have been defined" (Ofitsial'nyye otchety.., Sixth Session, Sixth Committee, 280th Meeting, para 4).

The British representative said that in "those cases where the existence of aggression is beyond doubt it may be expedient not to declare a given state to be the aggressor.. Such a position would be made very difficult if certain acts were defined beforehand as elements of aggression" (Doc. A/2211, page 263).

Such was the position of a number of UN members on the question of possibility and necessity of defining the concept of aggression.

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The Soviet draft definition of aggression was not adopted at either the Sixth or the Seventh Session of the General Assembly. Both sessions were nevertheless significant in international law.

First of all, it should be noted that as a result of the wide discussion of the Soviet draft definition of aggression the overwhelming majority of UN members came out in favor of a legal definition of aggression. The general Assembly resolution of 31 January 1952 put an end to the long and fruitless argument about the advisability of a legal definition of aggression, noting that a definition of aggression was "possible and desirable."

Discussion of the Soviet definition of aggression in the UN during 1950-1952 enriched international law with concepts such as direct and indirect aggression, ideological and economic aggression.

Also important is the fact that the attempt to study the problems of legal definition of aggression were made in close connection with the UN Charter, which is designed to maintain international peace and security.

In view of the complexity of the questions involved, the General Assembly resolution of 20 November 1952 set up a special committee (including representatives of Bolivia, Brazil, the Dominican Republic, Iran, Mexico, the Netherlands, Norway, Pakistan, Poland, Syria, the United Kingdom, the US, the USSR, France and the Kuomintang man), which was instructed to submit to the General Assembly at its Ninth Session draft definitions of the concept of aggression or draft explanations of that concept.

The special committee was instructed to study the following questions relating to a definition of aggression:

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(a) various forms of aggression;

(b) the question of what connection there would be between a definition of the concept of aggression and the maintainance of international peace and security;

(c) questions arising in connection with the inclusion of a definition of the concept of aggression in the code of crimes against the peace and security of mankind and with its application within the framework of international criminal justice;

(d) the question of the effect of the definition of the concept of aggression on the implementation of functions by the various UN organs;

(e) other questions that might arise in connection with a definition of the concept of aggression (General Assembly Resolution 688 (VII) of 20 December 1952 (Doc. A/AC. 66/L. 10).).

In August 1953 the Soviet Union submitted to the special committee the following draft definition of the concept of aggression:

"The General Assembly,

"Considering it necessary to establish guiding principles for defining a party guilty of aggression, declares:

"1. A state will be labeled aggressor in an international conflict if it is the first to perpetrate one of the following acts:

"(a) declares war on another state;

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"(b) invades with its armed forces the territory of another state, even without a declaration of war;

"(c) bombards with its land, sea or air forces the territory of another state or knowingly attacks ships or aircraft of that state:

"(d) lands or introduces its land, sea or air forces within the limits of another state without the permission of the government of that state or violates the conditions of such permission, specifically with regard to the time or expansion of the area of their stay;

"(e) sets up a sea blockade of the coasts or ports of another state;

"(f) supports armed bands organized on its own territory that invade the territory of another state, or refuses on being requested by the invaded state to take in its own territory any action within its power to deny such bands any aid or protection.

"2. A state will be said to have committed an act of indirect aggression if it:

"(a) encourages subversive activity in another state (terrorist acts, diversions and so forth);

"(b) promotes development of a civil war in another state;

"(c) promotes an internal coup in another state or a change in policy to the benefit of the aggressor.

"3. A state will be said to have committed an act of economic aggression if it is the first to commit one of the following acts:

"(a) exercises economic pressure violating the sovereignty of another state and its economic independence and threatening the bases of the economic life of that state;

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"(b) takes measures with respect to another state interfering with the exploitation or nationalization by that state of its own natural resources;

"(c) subjects another state to economic blockade.

"4. A state will be said to have committed an act of ideological aggression, if it:

"(a) encourages war propaganda;

"(b) encourages propaganda for the use of atomic, bacteriological, chemical and other means of mass destruction;

"(c) promotes propaganda of Fascist-Nazi views, racial and national superiority, hate and lack of respect toward other peoples.

"5. State acts other than those enumerated in the preceding points may also be regarded as aggression if in each specific case they are labeled as an attack or an act of economic, ideological or indirect aggression by decision of the Security Council.

"6. No consideration of a political, strategic or economic character, whether a desire to exploit natural resources in the territory of the attacked state or to obtain any other kind of benefits or privileges, or a reference to the considerable amount of invested capital or other special interests in the given territory, or a denial that the given territory has the distinctive features of a state, can serve as justification for the attack discussed in Point 1, or the acts of economic, ideological and indirect aggression discussed in Points 2, 3 and 4.

"Specifically, an aggression may not be justified by:

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"A. The internal situation of a state, such as:

"(a) the backwardness of a people in the political, economic or cultural sense;

"(b) shortcomings ascribed to its administration;

"(c) a danger that might threaten the life or property of foreigners;

"(d) a revolutionary or counter-revolutionary movement, a civil war, disorders or strikes;

"(e) the establishment or mainentance in a state of a given type of political, economic or social system.

"B. Any acts, legislation or decrees of a state, such as:

"(a) the violation of international agreements;

"(b) the violation of the rights and interests acquired by another state or its citizens in the field of trade, concessions or any other economic activity;

"(c) the breaking of diplomatic or economic relations;

"(d) an economic or financial boycott;

"(e) a debt repudiation;

"(f) a prohibition or limitation of imigration or a change in the status of aliens;

"(g) the violation of privileges granted to official representatives of other states;

"(h) a refusal to grant passage to armed forces en route to the territory of a third state;

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"(i) measures of a religious or anti-religious character;

"(j) frontier incidents.

"7. In case of mobilization or concentration by a state of considerable armed forces near its frontier, the state that is threatened by such acts has the right to resort to diplomatic and other means enabling a peaceful settlement of international disputes. It may also take counter-measures of a military character, similar to those cited above, without however crossing the frontier" (Pravda, 27 August 1953).

In the course of the discussion of the Soviet definition of aggression in the Sixth Committee of the UN General Assembly, in the International Law Commission and in the Special Committee, the question of types of definition of aggression aroused a lively debate. The following types of definition of aggression were proposed: (a) a general or abstract definition, (b) a specific definition, and (c) a mixed definition. Let us consider each one separately.

A general or abstract definition of aggression is a definition that contains only a general formulation of the concept of aggression without labeling the component elements of aggression as crimes.

An example of such a definition is the draft definitions submitted by Brazil and Panama to the International Law Commission in 1951. "Any war," said the Brazilian draft, "that is not waged as an implementation of the right of self-defense or under the terms of Article 42 of the UN Charter (is) an aggressive war."

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In this definition an attempt is made to define the concept of aggressive war, but not of armed aggression, since aggressive war is not the only form of armed aggression. Furthermore, the Brazilian definition does not say what state acts should be regarded as acts of aggression and, in the same connection, which of the belligerent parties is the attacker (aggressor). The same is true of the Panamanian draft definition. "An aggression," it says, "is the use of force by one state or a group of states or by a government or a group of governments against the territory and population of other states or governments, by any means whatsoever, by any methods whatsoever, for any motives whatsoever and for any purpose whatsoever, except individual or collective self-defense against armed attack or coercive measures of the UN" (Doklad Komissii mezhdunarodnogo prava.., op. cit., pages 10, 11).

The fact that, in contrast to the Brazilian draft, the Panamanian draft does not speak of aggressive war but of the "use of force" does not change anything since there is still no mention of the basic criterion by means of which the aggressor and his victim are to be quickly and unerringly determined. The concluding part of the Panamanian draft, permitting the use of force in individual or collective self-defense, confuses that important question since it enables an aggressor, after he has committed an armed attack against another state, to refer to this provision as a circumstance justifying his action. As the Polish delegate correctly said in the special committee, an abstract definition is useless because it does not spell out the components of the crime. Lack of clarity in that respect opens the door to dangerous arguments concerning the character of a given action, thus making it difficult for competent UN organs to decide speedily whether international peace has been violated.

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The aggressor, in order to continue his criminal acts and successfully complete his attack, is able to dispute the correctness of the description of his action and thus take advantage of the ensuing debate, which is bound to be lengthy in view of the inadequate clarity and precision of the definition (Doc. A/AC. 66/SR. 6).

A specific definition, in contrast to an abstract definition, lists the component elements or the specific indications of aggression as an international crime and qualifies state acts that are to be regarded as acts of aggression. Such a definition is the 1953 Soviet definition of aggression, which consists of the following organically related elements: (a) a definition of the attacking party in an international conflict; (b) an enumeration of state acts qualifying as acts of aggression; (c) a statement that mobilization or concentration of considerable armed forces by a state near the frontier of another state does not constitute an act of aggression; (d) a definition of other types of aggression, not related to the use of armed force; and (e) a statement that aggression cannot be justified by any considerations of a political, strategic or economic character. The sum-total of these provisions constitutes the concept of aggression and aggressor.

An enumeration of acts of aggression does not at all mean that other acts not listed in the definition cannot be regarded as aggression. Obviously no single definition can be complete. In international relations there may quite possibly occur other cases of aggression in addition to those listed, for example, in the Soviet definition. In view of this, the Soviet Government included in its definition a specific article, saying: "State acts other than those enumerated in the preceding points may also be regarded as aggression if in each specific case they are labeled as an attack or an act of economic, ideological or indirect aggression by decision of the Security Council."

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The Soviet definition of aggression thus does not pretend to be an "absolute" definition. The Security Council, which has been entrusted with chief responsibility for the maintenance of peace, may consider other state acts to constitute aggression. Furthermore, any definition of this type enables the UN to supplement the acts of aggression enumerated in the definition with other acts of armed, indirect, economic or ideological aggression depending on the specific circumstances dictated by the struggle of the peoples of the world for universal peace and security.

Moreover the Soviet definition is the most complete since it lists numerous examples of aggressions of past years (the concept of armed aggression) and contemporary methods and forms of imperialist expansion designed to restrict or completely destroy the national independence of small and economically weak peoples and states (the concept of indirect and economic aggression).

The principal distinction of the Soviet definition of aggression is the clarity of its formulation, enabling the UN Security Council in each specific case to determine quickly and unerringly who the aggressor is and to take masures under the UN Charter.

A mixed definition includes elements of both the abstract and the specific definitions. It consists of a text giving in general terms a definition of the concept of aggression and of a list of acts of aggression. Such a definition is the one contained in the so-called working document submitted by the Mexican delegation to the special committee in September 1953 and the draft definition submitted by Panama to the Sixth Committee of the General Assembly in October 1954.

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"The draft definition submitted by the Soviet Union," says the Mexican draft definition of aggression, "could be greatly improved and made acceptable to the Mexican delegation if it is amended as follows:

"1. After the preamble the following point should be included: (The General Assembly - [author's note]) declares that:

"in an international conflict aggression will be said to have taken place if the authorities of a state use direct or indirect force against the territorial inviolability or state independence of another state or for any other purpose other than legitimate individual or collective self-defense or fulfillment of a decision or recommendation of a competent organ of the UN. Specifically, aggression will be said to have taken place if a state commits any of the following acts.." (this is followed by Points (a) through (f) of Article 1 of the Soviet draft - [author's note]). The Mexican draft then proposes to eliminate Articles 2, 3 and 4 of the Soviet draft because of the danger involved in extending "the concept of aggression by including elements not related to the use of force" (Doc. A/AC. 66/L. 8; more about this point below).

It should be noted first of all that the Mexican draft suffers from the same shortcomings as an abstract definition. Neither it nor the abstract definition supplies a clear indication as to what constitutes aggression. It is not clear, for example, what is to be understood by the expressions "indirect use of force," "legitimate self-defense," "territorial inviolability" and so forth, since it is not evident from the definition in what cases a state would acquire the right of self-defense, i.e., to use armed force against another state.

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The Mexican draft proposes to apply the label of aggressor to any state that uses armed force other than in self-defense, but does not say what is meant by "self-defense." In case of an international conflict accompanied by military action, each belligerent state may accuse the other side of aggression and declare itself to be the victim and call its action self-defense, a situation that can only result in a drawn-out conflict and confusion.

The Mexican document says that the Soviet draft "could be greatly improved" if the introductory part of Article 1 were eliminated, i.e., the basic and most essential part of the Soviet definition, without which the definition of aggression loses all meaning. "The General Assembly," says the Soviet definition, "considering it necessary to establish guiding principles for defining a party guilty of aggression, declares:

"1. A state will be labeled aggressor in an international conflict if it is the first to perpetrate one of the following acts.." This is followed by Points (a) through (f), which the Mexican delegation is prepared to accept if the text preceding Point (a) is eliminated from the definition. From the point of view of the Mexican delegation, the General Assembly resolution should thus consist of the above-mentioned general definition of aggression and of a list of state acts given in Article 1 of the Soviet draft.

However, we need only cite any one of the points in Article 1 of the Soviet draft, as the Mexican working document proposes, to show that the Mexican amendments do not improve the Soviet definition but, on the contrary, make it worse. For example, here is how Point (a) would look after the Mexican amendment.

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Specifically, says the Mexican draft, aggression will be said to have taken place if a state commits any of the following acts: (a) declares war on another state etc. Let us assume that State A is the first to declare war on State B; in reply State B declares war on State A. According to the Mexican draft both states should be regarded as aggressors in spite of the fact that one of them (State B) is the victim of aggression. Thus, instead of condemning the aggression and taking the victim under its wing, the UN Security Council would be expected to take the same attitude toward both states by applying international sanctions both against the aggressor and its victim. The senselessness of this proposal is more than obvious. Let us now turn to the Soviet definition without the Mexican amandment. What would be the legal consequences of the situation created by the two above-mentioned states in the light of the Soviet proposals? According to the Soviet definition, State A, the first to declare war on State B, should be labeled the aggressor and State B the victim of aggression. Consequently the acts of State A would be regarded as acts of armed aggression, and the acts of State B as acts undertaken in self-defense. The Security Council, guided by such aprinciple, would condemn the aggressor, take the victim under its wing and take the necessary measures to restore universal peace and security.

The mixed definition of the concept of aggression proposed by the Mexican delegation is therefore not acceptable. The first part, which tries to give a general (abstract) definition of aggression includes a number of unclear formulations that might be used by aggressors to justify their actions, to draw out the international conflict that they provoked and to achieve other aims incompatible with the UN Charter.

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The second part, which is a repetition of Article 1 of the Soviet draft, actually has nothing in common with the Soviet definition because it lacks the definition of the concept of the attacking side in an international conflict, i.e., the basic and most decisive criterion of the concept of armed aggression and aggressor.

The Panamanian draft definition of the concept of aggression says: "Aggression means any use of armed force by one state against another for any purpose except individual or collective self-defense or in fulfillment of a decision or recommendation of a competent organ of the UN" (Article 1).

"In addition to any other acts that competent organs of the UN might declare to be acts constituting aggression, the acts enumerated below constitute particular acts of aggression" (Article 2). There follows an enumeration of these acts (Doc. A/C. 6/SR 406).

The Panamanian draft definition of aggression differs in virtually no respect from the Mexican draft. The Panamanian draft, like the Mexican draft, does not say what constitutes aggression. As the delegate of Paraguay correctly noted, the Panamanian draft merely says that everything that is not just is unjust and everything that is not prohibited is permitted. Such a formulation, to the effect that whatever is not "self-defense" is "aggression," merely compounds the difficulties and makes necessary a definition of the term "self-defense" (Doc. A/C. 6/SR. 409).

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CHAPTER II. THE CONCEPT OF ARMED, INDIRECT, ECONOMIC AND IDEOLOGICAL AGGRESSION

1. The Concept of Armed Aggression

Armed aggression is the most dangerous for the cause of universal peace and security of the peoples; it is quite understandable that it occupies first place in the Soviet definition.

"A state will be labeled aggressor in an international conflict," says Article 1 of the Soviet definition of aggression,' "if it is the first to perpetrate one of the following acts:

"(a) declares war on another state;

"(b) invades with its armed forces the territory of another state, even without a declaration of war;

"(c) bombards with its land, sea or air forces the territory of another state or knowingly attacks ships or aircraft of that state:

"(d) lands or introduces its land, sea or air forces within the limits of another state without the permission of the government of that state or violates the conditions of such permission, specifically with regard to the time or expansion of the area of their stay;

"(e) sets up a sea blockade of the coasts or ports of another state;

"(f) supports armed bands organized on its own territory that invade the territory of another state, or refuses on being requested by the invaded state to take in its own territory any action within its power to deny such bands any aid or protection."

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The Soviet draft would apply the label of aggressor in an international conflict to a state that is the first to commit an armed attack against another state. The determinants in the concept "armed aggression" are indissolubly related factors: (a) an attack committed in an international conflict, and (b) an attack that a state was the first to commit. An analysis of these concepts is important for an understanding and interpretation of Article 1 of the Soviet draft.

An act would be qualified as an act of armed aggression only if it was committed in an international conflict, i.e., by one state against another state. In the meaning of the Soviet definition, an aggressor and a victim of aggression could be only states, i.e., independent subjects of international law. This provision is in complete accordance with the principles of contemporary international law.

The concept of aggression is not applicable to domestic conflicts or civil wars occurring within a given state between various groups and parties.

Domestic conflicts and civil wars are the internal affair of a state, i.e., in the words of the UN Charter, an affair coming in essence within the internal jurisdiction of a state. If, therefore, an internal conflict between parties in a given state results in military actions, neither of the belligerent sides can be labeled an aggressor.

In this connection we should note the "decision" taken by the Anglo-American group of members of the Security Council on 25 June 1950, by which North Korea was unjustly accused of aggression against South Korea.

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Without going into the distortion of the actual situation (we all know the South Koreans were the first to attack, not the North Koreans), we should note that this "decision" is illegal merely because the military actions in Korea were an internal and not an international conflict, a civil war and not a war between separate foreign states.

The second factor defining armed aggression and aggressor, according to the Soviet draft, is an armed attack that a state was the first to commit against another state. Article 1 of the Soviet draft starts with the words: "A state will be labeled aggressor in an international conflict if it is the first to perpetrate one of the following acts.." This, of course, refers to armed aggression. This wording of the introductory part of Article 1 is based on the following considerations. In the meaning of the Soviet draft, the concept of armed aggression is broader than that of aggressive war because, in addition to aggressive war in the direct sense, armed aggression can also take the forms of armed attack listed in Points (c), (d), (e) and (f) of Article 1.

The Soviet draft definition is based only on a desire to maintain peace throughout the world. History has shown that to achieve their criminal ends aggressive states will resort to war in cases where other forms of force do not yield expected results. Aggressive states do not disdain any means to provoke a peace-loving state into taking counter-measures of a military nature that the aggressor can then present as an act of aggression.

We know of cases where state acts bearing the character of armed force were not condemned by competent international organs. Examples are the Japanese-Chinese conflict, the German-Italian armed intervention against Republican Spain, the annexation by

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Hitlerite Germany of Austria and Czechoslovakia, and the Dutch-Indonesian conflict. In all these cases and in many others, the aggressive states were not condemned either by the League of Nations or by the UN.

This can be explained, first of all, by the policy of the imperialist powers, which were not interested in unmasking and punishing aggressors. The policy of the imperialist powers was aided by the absence in international law of clear indications of what was to be regarded as an act of armed aggression. For example, the Declaration on Aggressive Wars, adopted by the League of Nations on 24 September 1927, says that war should never serve as a means for solving disputes between states and that it consequently constitutes an international crime. "Any aggressive war is and will be prohibited," the declaration says. Of all possible forms of armed aggression, the Briand-Kellogg Pact condemned only "recourse to war for the settlement of international disputes." Even such international legal documents as the statute, the indictment and the sentence of the Nuremberg International Military Tribunal, qualify only aggressive war as an international crime out of all possible cases of armed aggression. Point (a) of Article 6 of the statute of the Nuremberg tribunal defines as crimes against the peace "the planning, preparation, starting or waging of aggressive war," in connection with which Part II of the indictment lists the following acts for which the accused were criminally responsible: the planning, preparation and starting of war against Poland, Britain, France, Denmark, Norway, Belgium, the Netherlands, Luxembourg, Yugoslavia, Greece, the USSR and the US, but does not list other actions of Hitlerite Germany, such as the annexation of Austria and the Sudetenland because from the point of view of the tribunal "none of these actions can be charged

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as an aggressive war," although the same tribunal does consider the seizure of Austria by Germany as an act of aggression (Nyurnbergskiy protsess, op. cit., Vol I, page 48; Vol II, pages 1057, 1075).

On the other hand, the 1933 convention, signed by 11 states, in defining the attacking side, does not restrict the concept of armed aggression to aggressive war. Article 1 of the UN Charter says that the UN seeks to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to peace, and for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of the peace. The resolution adopted by the General Assembly on 17 November 1950 says that any aggression "is the most serious of crimes against peace and security throughout the world." It can be concluded that the UN would allow a case of breach of the peace as a result of aggressive state acts other than aggressive war.

The lack of definiteness in contemporary international law on such a vital question as the definition of the concept of armed aggression deprives the competent UN organs of the possibility of reacting promptly and correctly to state acts bordering on war, such as, for example, the bombarding of territory, a sea blockade of coasts or ports of another state and so forth.

The Soviet proposals have tried to eliminate this major gap by seeking acceptance in international law of the principle under which the basic criterion in the concept of armed aggression would be the fact of an unprovoked attack by one state on another. This aim is achieved by the wording of Article 1 of the Soviet draft definition, according to which the label of aggressor would

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be applied to a state first using armed force against another state. This formulation would enable the UN to qualify as armed aggression not only war as such, but other state acts bordering on war.

The Soviet draft definition fully meets existing standards of international law.

What is the essence of the Soviet definition of the attacking side?

State acts such as a declaration of war, or the armed invasion of another state without a declaration of war, or the bombarding of the territory of another state are not in themselves acts of aggression. Such acts may be entirely justified if they are undertaken in self-defense or in implementation of mutual assistance pacts against aggression and decisions under Chapter VII of the UN Charter. Therefore, we cannot qualify as armed aggression the mere fact of an armed attack by a state against another state. In order to determine the aggressor according to the meaning of Article 1 of the Soviet draft, it must be established which state committed the attack first.

The need for determining which state was the first to attack is explained by the fact that the state acts enumerated in Article 1 may be entirely justified by reference to the appropriate standards of international law.

The situation is slightly different when it comes to the state acts enumerated in Article 2 of the Soviet draft. We know that in order to determine cases of aggression enumerated in this article the question of which state was the first to commit this type of aggression is immaterial. Encouragement of subversive

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activity against another state, promotion of civil warfare, of a domestic coup or of a change in policy in another state to the benefit of the aggressor are regarded in the Soviet definition to constitute aggression in any case, irrespective of which state was the first to commit it, precisely because there are no established standards in international law justifying such activities.

Therefore, if two states engage mutually in activities enumerated in Article 2, both states must be labeled aggressors, while under Article 1 the state first to commit an armed attack would be labeled the aggressor and the state undergoing the attack would be the victim of aggression.

The introductory part of Article 1 is not the only place in the definition establishing this major principle of international law. Article 7 of the Soviet draft says that "in case of mobilization or concentration by a state of considerable armed forces near its frontier, the state that is threatened by such acts has the right to resort to diplomatic or other means enabling a peaceful settlement of international disputes. It may also take counter-measures of a military character, similar to those cited above, without however crossing the frontier."

The article in question is directed against the use by a state of the so-called threat of attack for the purpose of justifying armed aggression. A state does not have the right to resort to force if armed forces of another state are concentrated near its frontier; it must seek a peaceful settlement of the situation. While taking all necessary measures against a possible attack by foreign armed forces, such a state should not cross its frontier, open military operations and take other measures of force

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of a military character, otherwise it, and no other state, would be labeled the aggressor.

The acknowledgement that an aggressor is a state first committing an armed attack against another state is a simple and, at the same time, the only correct criterion for defining both the concept of armed aggression and the responsibility of a state for aggression.

In the discussion of this question in 1953, the Polish delegate supported the Soviet draft, noting that if, in accordance with the Soviet proposal, an aggressor in an international conflict were to be the state first committing an armed attack against another state, then the community and the competent UN organs would be forced to take appropriate measures, and there would be no repetition of procedures such as accompanied the Japanese aggression against China and the Italian aggression against Ethiopia. The aggressors would not be able to carry out their activities under the guise of police action or punitive expeditions (Doc. A/AC. 66/SR. 6).

A similar thought was voiced by the representative of Czechoslovakia. In his opinion, the Soviet definition makes it possible to determine quickly in any specific case the aggressor and the victim of aggression.

The Soviet wording of the definition was also supported by the representative of Paraguay, who, in enumerating the principal elements constituting the concept of armed aggression, stressed the importance of who was the first to make an attack.

The Greek delegation, which earlier had taken a negative attitude toward the question of possibility and desirability of

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defining armed aggression, came out at the Ninth Session of the General Assembly in favor of the Soviet definition, on the ground that the inclusion of Article 5 in the Soviet definition constituted a major amendment (Doc. A/C. 6/SR. 406 and 409).

At the same time, however, the representatives of some states maintained that use of the Soviet principle of labeling aggressor the state first committing an attack might in practice lead to completely opposite results. As an example, they said that on the basis of the proposed definition Britain and not Germany would have been labeled the aggressor in 1914 because it was Belgium and not Britain that was attacked by Germany, while Britain was the first to declare war on Germany. Actually the situation in 1914 was that Germany violated Belgium's neutrality, attacking Belgium for the purpose of invading France. Article 7 of the Treat of London of 15 November 1831 proclaimed the independence and "eternal neutrality" of the Belgian state, and Article 25 contains a guarantee by five powers (Britain, France, Russia, Prussia and Austria) or both the independence and the neutrality of Belgium (F. Martens, Sobraniye traktatov i konventsiy, zaklyuchennykh, Rossiyeyu s inostrannymi derzhavami [Collection of Treaties and Conventions Signed by Russia With Foreign Powers], Vol XI, St. Petersburg, 1895, pages 473,483). That guarantee was renewed in the Treaty of London of 19 April 1839, signed by six powers including Britain (F. Martens, op. cit., Vol XII, 1898, pages 84-103). We also know that the Commission of Fifteen on the question of responsibility for the war of 1914-1918 found that Germany had violated the 1839 treaty.

In the light of these documents Britain's entry into the war of 1914-1918 cannot, of course, be regarded as an act of aggression on the part of Britain against Germany.

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We should also examine the considerations expressed by the US delegate against the Soviet draft definition.

Speaking in the special committee, the US delegate said that the wording of a definition that might in certain cases deprive a state of its vital right to self-defense was too serious a matter to be decided by simple majority vote. It would be wiser to follow the course, advocated by the San Francisco Conference, of granting each state the right to self-defense. The definition contained in Point 1 of the Soviet draft is supposedly extremely dangerous because it attaches guilt to the side that is the first to commit the stated actions (Doc. A/AC. 66/SR. 11).

It should be noted first of all that the Soviet draft does not say a word about depriving a state of the right to self-defense, nor does this idea emerge from the meaning of the Soviet definition.

Furthermore, the Soviet definition not only does not contradict the UN Charter, which grants each state the right to self-defense, but, on the contrary, is a natural extension of the Charter and fully corresponds to it.

Article 51 of the Charter speaks about the inherent right of individual and collective self-defense if "an armed attack occurs against a member of the UN." In the Soviet definition, armed aggression is defined as the concept of "armed attack," i.e., the fact that may call for counter measures under the heading of individual or collective self-defense in accordance with Article 51 of the Charter.

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The Soviet definition or armed aggression, being in accordance with the provisions of Article 51 of the Charter, deprives UN members of the right to resort to force under the pretext of defense of their territory against the threat of attack, i.e., the right to self-defense with an aim contradicting the Charter.

In the discussion of the Soviet draft in the special committee, a number of delegations raised a number of questions of theoretical and practical significance, such as the threat of aggression (or threat of the use of force, the legitimacy of self-defense, the question of the existence of aggressive intent (or design) in state activities, and the question of whether the Soviet definition was in conformity with the UN Charter.

The delegate of the Netherlands insisted on the inclusion in the definition of armed aggression of the threat to use force, on the grounds that the UN Charter prohibits a threat to use force or its use against the territorial inviolability or political independence of any state; that Point 2 of Article 2 of the draft Code of Crimes Against the Peace and Security of Mankind lists a threat of force as a crime; and that the ruling of the Tokyo tribunal regarding the declaration of war on Japan by the Netherlands six months before the attack on Indonesia said: "Having acknowledged the existence of a state of war and facing the threat of an inevitable attack on its Far Eastern territories, which the conspirators had long planned and which was about to be realized, the Netherlands declared war on Japan for purposes of self-defense" (Doc. A/AC. 66/SR. 10).

On the basis of these considerations the Netherlands delegate considers the threat of force mentioned in Point 4 of Article 2 of the UN Charter as a state act that might call for legitimate action

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under the heading of self-defense. (At the Ninth Session of the General Assembly the Netherlands delegation submitted a draft definition of armed aggression in which the threat of force was regarded as an act of aggression (see Doc. A/C. 6/SR. 410 of 28 October 1954); on 8 November 1954 the Netherlands delegation submitted a second draft definition in which it was stated that in exceptional cases the direct threat to use force may be equated to aggression (see Doc. A/C. 6/SR. 416)).

The Netherlands delegate thus proposes to consider under the heading of self-defense legitimate measures of a preventive character undertaken by a state against another state. A state would be given the right to be the first to use force against another state before the "potential aggressor" carried out his threat.

These arguments of the Netherlands delegate are not consistent with the following considerations: the UN Charter does not speak of a "threat of force" against which individual UN member states may take actions of a preventive character under the heading of self-defense. Point 4 of Article 2 of the Charter says that "all members shall refrain in their international relations from the threat of force;" however, Point 1 of Article 1 of the Charter stresses that the purposes of the UN are "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace." A threat of force presents precisely the kind of international situation that should be adjusted by peaceful means and not by force.

Another question arises when the UN is confronted with the fact of the existence of a threat to the peace. In that case, in

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accordance with Article 39 of the Charter, the Security Council may take actions to prevent a deterioration of the situation, but that right belongs only to the Security Council and not to individual members of the UN.

The UN Charter provides a clear and sharp differentiation between measures of a coercive character that may be taken only by the Security Council and measures taken by individual members states under the heading of individual or collective self-defense. Article 39 of the Charter says that "the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42, to maintain or restore international peace and security." Consequently the Security Council is not limited in its actions; in case of a threat to the peace, breach of the peace or act of aggression, it has the right to take measures it considers necessary. It may take measures both against states guilty of having committed an act of aggression, i.e., when an armed attack has already been made, and against states guilty of a threat to the peace or of a threat of aggression, i.e., prior to the actual committing of an armed attack. The actions of individual states taken under the heading of so-called self-defense are, on the other hand, strictly limited by the UN Charter. Article 51 of the Charter says that "nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the UN," and this means that individual member states have the right to take counter-measures of a military character only when an armed attack has already taken place.

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Armed aggression takes place only when an armed attack against the territory of a state has taken place and not when there is merely the threat of such an attack. Strictly speaking, even the Netherlands delegate acknowledged this fact. In explaining his point of view, the Netherlands delegate said he concluded that according to the meaning of Point 4 of Article 2 of the UN Charter "a threat to use force may be an aggression," however, "for the threat to use force to be considered an act of aggression it must be immediate, i.e., the threat must be carried out" (Doc. A/AC. 66/SR. 14).

In making his proposals in the special committee, the Netherlands delegate referred, in addition to the UN Charter, also to the draft Code of Crimes Against the Peace and Security of Mankind and to the ruling of the Tokyo Tribunal.

Point 2 of Article 2 of the draft code, which was prepared in 1951 by the International Law Commission, says only that "any threat of the authorities of a state to commit an act of aggression against another state" (Doklad Komissii mezhdunarodnogo prava.., op. cit., page 14) is an international crime, but does not say that this crime is an act of aggression or that it is equivalent to the concept of an act of aggression. It would be wrong to demand inclusion of the threat of aggression in the definition of the concept of armed aggression merely on the ground that both an act of aggression and a threat of aggression are qualified in the draft code as crimes against the peace and security of mankind. The mere fact that a state commits an international crime does not and cannot create conditions under which the victim of the crime acquires the right to self-defense. For example, Point 6 of Article 2 of the draft code provides that an international crime is involved if the "authorities of a state carry out or encourage terrorist

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activities in another state or tolerate an organized activity designed to commit terrorist acts in another state." Can it be considered merely on the ground that the state against which these activities are directed acquires the right to self-defense, i.e., to military action against the state guilty of having committed the given crime? Of course not. Regarding the references made by the Netherlands delegate to the ruling of the Tokyo tribunal as a precedent in international law supposedly permitting a preventive war under the heading of self-defense, we need only recall that at that time the Netherlands declared war on Japan (8 December 1941) Japan was already in a state of war with the Netherlands, a fact that was noted in the very same ruling of the Tokyo tribunal ("having acknowledged the existence of a state of war") and that the Netherlands declared war on Japan, which had been labeled an aggressor by the overwhelming majority of states.

Among the arguments presented by representatives of the imperialist powers in favor of including the threat of attack in the definition of the concept of armed aggression was the following statement of the US delegate. Article 3 of the Soviet draft definition, he said, finds a state to have committed an act of economic aggression if it is the first to exercise economic pressure violating the sovereignty of another state, its economic independence and threatening the bases of the economic life of that state. "It is illogical to assert that this type of economic pressure constitutes aggression and to say at the same time that a state whose very existence is threatened by a danger.. is guilty of preventive war if it takes measures of self-defense" (Doc. A/AC. 66/SR. 13, page 6).

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This statement equates two completely different concepts: armed aggression and economic aggression. If the threat to the bases of the economic life of a state were equated to armed attack, then the objections voiced by the US delegate would be justified. However, the concept of economic aggression occupies an independent place in the Soviet definition and should not be confused with the concept of armed aggression. In an armed aggression the victim has the right to individual self-defense in accordance with the meaning of Article 51 of the UN Charter, but in economic aggression it does not have that right. Nor does the Soviet definition provide for the right to self-defense in case of economic aggression.

The threat to use force cannot be included in the definition of the concept of armed aggression merely because the right to individual or collective self-defense arises only in the case mentioned by Article 51 of the UN Charter. The threat to use force or the threat of aggression cannot be included especially because such a principle would complicate the struggle against aggression and once again legalize war as a means of settling international disputes.

To include in the definition the threat of aggression, the concept of which, incidentally, has never been defined, would mean that the threat of aggression constitutes armed aggression.

This, in turn, would require a change in Article 51 of the UN Charter in the sense of broadening the rights of state to individual or collective self-defense. Individual member states would then acquire the "legitimate" right to resort to war any time they see fit. To avoid being labeled aggressors, they would merely have to declare that at the time of the armed attack the acts of the victim of the attack constituted a threat of aggression.

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The inclusion in the definition of the concept of aggression of any principle justifying the right of a state to be the first to attack another state under the heading of self-defense against a threat of aggression would basically destroy the meaning of a definition of aggression. It would create a loophole for the aggressor and an argument for justifying aggressive actions under the heading of self-defense. This would contradict the purposes and principles of the UN Charter.

"The right of any country to armed self-defense," said the Soviet delegate in the special committee, "naturally arises only in the case where it undergoes armed attack and not when there is a threat or preparation of attack. This is clear from Article 51 of the Charter. In all other cases the country may have recourse to measures enumerated in Article 7 of the definition of the concept of aggression proposed by the Soviet delegation. In case of a threat to the peace, the Security Council may take measures provided by the Charter" (Doc. A/AC. 66/SR. 9, page 19).

Speaking against inclusion of the threat of aggression in the definition, the Mexican delegate said that according to Article 51 of the Charter only the use of armed force may justify exercise of the right to legitimate self-defense. Any other decision would be dangerous because it would sanction the use of preventive war (Doc. A/AC. 66/L. 11, page 27).

A similar point of view was expressed by the delegates of Belgium, Norway, Iran and other states.

Speaking against inclusion of the threat of aggression in the definition, the Czechoslovak delegate reminded the Sixth Committee at the Ninth Session of the General Assembly that when

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Hitlerite Germany attacked the Netherlands, Belgium and Luxembourg it did so under the pretext that it was threatened by aggression and was exercising its right to self-defense. However, as is evident from the documents of the Nuremberg trial, the occupation of these countries was part of a thoroughly conceived plan for gaining domination over the world (Doc. A/C. 6/SR. 405, 410 and 413).

The discussion of the Soviet draft definition in the Sixth and special committees showed that the suggestions and critical comments of the delegates of some capitalist countries followed two main lines: the line of expanding the rights of states to individual and collective self-defense by including in the definition of armed aggression concepts that had nothing in common with armed aggression (the threat to use force, the threat of aggression), and the line of narrowing the concept of armed aggression itself. The aim was the same: to create conditions under which individual capitalist states could use armed force without risking being labeled aggressors.

The attempts of some members of the special committee to narrow the concept of armed aggression are best illustrated by the concept of the Netherlands delegate, according to which not every use of force could be regarded as aggression in the meaning of the principles of the UN Charter.

The Netherlands delegate cited in particular Point B(j) of Article 6 of the Soviet definition, according to which frontier incidents do not justify aggressive acts.

In support of his concept, the Netherlands delegate brought forth arguments presented in 1926 in a speech by [De Bruker] to a committee of the Council of the League of Nations (De Bruker's]

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speech was devoted to Article 11 and 16 of the League Covenant and was presented in connection with preparation of the Disarmament Conference.) "[De Bruker] said in his speech," the Netherlands delegate declared, "that not every act of force necessarily gives the victim the right to resort to war; in order for it to start a war for purposes of self-defense, a state must be a victim of obvious aggression, so serious that it would be dangerous for it not to take immediate counter-measures."

He then draws the following conclusion: "In former days any state could start a war if its honor and vital interests were impaired; nowadays the Charter acknowledges the right of a state to resort to arms only in defense of its territorial inviolability and political independence. It follows that the use of force must be of such a character and on such a scale that the victim is forced to use its armed forces in defense of its territorial inviolability and political independence. At the time of the use of force, it is not the aim of the act that is being committed but the substance of the act that should serve as the criterion, specifically: whether the territorial inviolability or political independence of the victim was actually impaired. Then and only then can the use of force be defined as aggression" (Doc. A/AC. 66/SR. 10 pages 8, 9-10).

The theoretical arguments offered by the Netherlands delegate would lead to two basic principles: (a) not every use of force can be regarded as aggression in the meaning of the principles of the UN Charter; (b) at the time of the use of force, it is not the aim of the act that is being committed but the substance of the act that should serve as the criterion for defining aggression. The use of

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force would be aggression only when the acts of the state actually impair the territorial inviolability or political independence of the victim.

Let us examine these principles. The object of defining the concept of armed aggression is not to establish conditions under which the defined acts of a state would automatically call for counter-measures under the heading of individual or collective self-defense, but rather to establish criteria that would enable the UN Security Council to determine the aggressor and its victim unerringly and exactly. Under the pretext of the danger of broadening the right to self-defense, the Netherlands delegate proposes to narrow the concept of armed aggression itself, i.e., not to qualify certain state acts as armed aggression. The Netherlands delegate does not spell out the acts that in his opinion should not be regarded as acts of armed aggression, but limits himself to the nebulous wording that "not every use of force should be regarded as aggression."

Such a statement without clear and precise definition of the cases in which the use of force should not be regarded as an act of armed aggression (armed attack) can have undesirable consequences for the cause of universal peace and security.

The reference of the Netherlands delegate to Point B(j) of Article 6 of the Soviet definition as a proof supposedly supporting his concept is not at all borne out since the stated point speaks about a specific case where the use of force should not be regarded as armed aggression, namely the case of frontier incidents.

As for the arguments presented in the Council of the League of Nations on the question of when a state acquired the right to

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self-defense, it should be stressed that the main point in [De Bruker's] speech was not that "not every use of force should be regarded as an act of aggression," as the Netherlands delegate tried to show, but that specifically frontier incidents do not constitute a ground for legitimate self-defense. "Not every act of force," says [De Bruker's] speech, "necessarily gives the victim the right to resort to war. If a platoon of soldiers takes a few steps across the border in a colony situated far from any vital centers, if the circumstances clearly show that the aggression was committed through the fault of some subordinate commander and that the central authorities of the 'aggressor' state, upon being informed, immediately halted the actions of their subordinate, halted the invasion, offered apologies, proposed compensation, and took measures to prevent a recurrence of such cases, then we cannot maintain that we are dealing with an 'act of war' and that the invaded state can properly use this pretext to mobilize its army and advance on the enemy capital" (Garantii bezopasnosti po Statutu Ligi Natsiy, op. cit., page 184).

Let us now turn to the second principle, according to which, at the time of the use of force, it is not the aim of the act that is being committed but the substance of the act that should serve as the criterion for defining aggression. The use of force is aggression only when the acts of a state impair the territorial inviolability or political independence of the victim.

This principle clearly contradicts the first rpinciple because if we adopt the second principle in defining aggression then we would also qualify frontier incidents as acts of armed aggression. Frontier incidents can arise only as a result of the

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violation by one state of the frontier of another state, i.e., violation of the territorial inviolability of the victim.

In discussin g the Soviet definition in the special committee some members voiced the view that a characteristic element of aggression as an international crime was the intent, i.e., the existance in the acts of the state of a premeditated aggressive design (animus aggressionis).

The French delegate, for example, in criticizing the Soviet definition noted that the factor of design (intent) was fully established in domestic law and that the Soviet draft was inconsistent in following this principle. As an example, the French delegate cited Point (c) of Article 1 of the Soviet definition, which says that a state would be labeled aggressor in an international conflict if it is the first to commit one of the following acts: "bombards with its land, sea or air forces the territory of another state or knowingly attacks ships or aircraft of that state."

The inconsistency of the Soviet definition, in the French view, arises because in Point (c) "bombardment" is declared to be an aggressive act without the qualification that criminal intent must be proven, while the same point mentions the intentional attack on ships and aircraft (knowingly attack ships or aircraft). "If the intent is to serve as a criterion," the French delegate said, "this should be stated precisely in all parts of the definition" (Doc. A/AC. 66/SR. 10, page 7).

We must first of all deal with the general question: do we need a special statement on intent (on aggressive design) of a state committing the acts enumerated in the Soviet definition?

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The perpetration by a state of the acts enumerated in the Soviet definition of aggression, subject to the condition that they were committed in an international conflict and were first committed by the given state, is exhaustive proof of the existence of aggressive design. Aggressive action implies aggressive design.

In qualifying aggression as an international crime, international law presumes that a state, as a social organism, has the capacity to control its actions and to pursue its aims knowingly and that there are no states that are irresponsible for their actions. If a state, therefore, does not have the intent to commit an act of aggression, then there will be no act of aggression.

Aggression can be committed by a state only intentionally.

One might ask: if that is so, if aggression can be committed only intentionally, why not say so in the definition of aggression? The point is that a special mention of intent as a factor qualifying aggression as an international crime would not improve the definition but would instead make it worse, because such mention would give the impression that acts enumerated in the Soviet definition could not qualify as international crimes if they were unintentional. A state committing aggression would be in a position to point to the absence of aggressive intent in its actions and thus escape responsibility for its crime.

Let us now turn to the remarks of the French delegate regarding Point (c) of Article 1 of the Soviet definition. In this point, unlike all the other state acts qualifying as acts of aggression, an attack by the armed forces of a state on ships and aircraft of another state is regarded as an act of armed aggression only if the attack is committed knowingly, i.e., intentionally.

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Does this formulation contradict the principle that every act of aggression can only be intentional? It seems to us that there is no contradiction because the point in the wording is that the armed forces of the attacking state might make a mistake under certain circumstances, such as poor visibility, or the absence of clearly marked sea and air frontiers of the given foreign state. Under these circumstances the immediate use of armed forces against a state under the heading of self-defense could lead to undesirable consequences. The Soviet definition is therefore wise in stating that the mere fact of an attack by the armed forces of a state against ships and aircraft of another state does not constitute an act of aggression unless there was intent on the part of the attacking state.

The principal and first-priority task for the solution of which the UN was set up is the maintenance of peace and the prevention of a new war. Armed aggression is the most serious of international crimes against which the efforts of all states and peoples of the world without exception should be directed.

The concept of armed aggression formulated in Article I of the Soviet definition is an expression of the essence of a peace-loving foreign policy, a policy of peace and friendship among peoples.

The discussion in the UN of the question of defining the concept of armed aggression has shown that such a definition is possible, useful and necessary.

In the course of the discussion of the Soviet definition some states offered their suggestions, amendments and own draft resolutions. Some of these, for example, the draft resolutions of a general or abstract character and the suggested inclusion in the

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definition of the threat of aggression of the factor of intent (design), were met by objections from a large number of delegates both in the Special Committee and in the Sixth Committee of the UN.

The UN continues to focus its attention on the basic and principal criterion of the definition of the concept of armed aggression, proposed by the Soviet Union in 1933 and resubmitted by it in 1950 and 1953, according to which the label of aggressor in an international conflict would be applied to the state whose armed forces would be first to invade the territory of another state.

That principle must be the basis for any definition of the concept of armed aggression and of the aggressor.

The UN cannot ignore the fact that the peoples of the world do not want another war and that they would severely condemn the attacking side, that is those who would unleash a new world war. The peoples of the world are determined not to permit another war and to fight to the end any attempts of the aggressive forces of imperialism to unleash a new world war.

"There can be no doubt that in such a situation, and also of course if the peace-loving countries are properly prepared for self-defense, the attacking party guilty of unleashing a new war would be decisively condemned as an aggressor and would be morally and politically isolated in the eyes of the peoples of the entire world, and that this would predetermine [the aggressor's] unavoidable defeat" ("Statement by V. M. Molotov at the Anniversary Session of the United Nations," Pravda, 23 June 1955).

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2. The Concept of Indirect, Economic and Ideological Aggression

In the course of the UN General Assembly debate of the 1933 draft of the Soviet definition of aggression, the representatives of a number of states stressed the need for including in the definition, in addition to armed aggression, other forms of aggression, namely indirect, economic and ideological.

The British representative in the Sixth Committee of the Sixth Session of the UN General Assembly said that the Soviet definition said nothing about indirect aggression in which a state would engage in subversive activities on the territory of another state (United Nations, General Assembly, Sixth Session, Official Records, Doc. A/C. 6/SR, 281, para 9).

The Cuban representative asked for a definition of economic aggression, which, in his opinion, was no less dangerous "than aggression in the form of subversive activities." In his view, it would be wrong to assert that the concept of economic aggression could not be included in general principles of a definition of aggression merely because it was one of the newest forms of aggression. "If international law recognizes a blockade as an act of aggression," he said, "then economic aggression, which actually represents a blockade, must also undoubtedly be recognized as an act of that type" (Ofitsial'nyye otchety General'noy Assamblei [Official Reports of the General Assembly], Seventh Session, Sixth Committee, 334th Meeting, para 34).

The Argentine delegation, supporting the Cuban view, made the following statement: "..a definition that does not include economic aggression would be of no value. These considerations caused the Argentine delegation to submit at the Fourth Session of the General

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Assembly, in the course of the debate on the draft declaration of the rights and obligations of states, a draft article enjoining on states to refrain from the use of any compulsory measures of a political or economic character designed to exert pressure on the sovereign will of another state and compel to agree to the granting of any kind of privileges" (Ofitsial'nyye otchety.., op. cit., para 15).

The representative of Afghanistan pointed out that in spite of the legal equality of states no economic equality existed; economically strong states are able, by virtue of their position, to exert pressure that is in effect an act of aggression. No direct attack takes place in such cases, but the pursued aim differs in no respect from the aim of aggression in any other form, namely to compel the victim to bow to the will of the aggressor.

The representative of Indonesia insisted on including in the definition the concept of ideological aggression in addition to economic.

The inclusion of indirect, economic and ideological aggression in the definition was also favored by the representatives of Iran, Syria, Bolivia and other states. Moreover, it was proposed to qualify as an act of aggression certain state activities such as the rejection of a procedure of peaceful settlement of disputes having an international character, nonobservance and nonfulfillment by states of resolutions of the General Assembly and the Security Council aimed at the maintenance of peace and the prevention of international friction, and others (Memorandum Sekretariata OON [Memorandum of the UN Secretariat], Doc. A/AC. 66/1, pages 13, 14-16).

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It should be stressed that the question of prohibiting such forms of aggression as indirect, economic and ideological aggression had been raised long before the Sixth and Seventh session of the UN General Assembly.

For example, Article 2 of the Treaty of Neutrality and Mutual Nonaggression concluded on 24 June 1931 between the USSR and Afghanistan said: "..each Contracting Party undertakes not to take part in any financial or economic boycott or blockade directed against the other Contracting Party; Article 3 of the treaty said that the Soviet Union and Afghanistan, basing themselves on mutual recognition of their state sovereignty, undertook to refrain from any armed or unarmed interference in each other's internal affairs and from cooperation or participation in any intervention on the part of one or more third powers that might take steps against the other Contracting Party. Both states also undertook to prevent on their territory the organization and activity of groups and individuals planning the overthrow of the state system of the other Contracting Party, violation of its territorial integrity, or the mobilization or recruitment of armed forces against the other Contracting Party (SSSR v bor'be za mir [The USSR in the Struggle for Peace], Speeches and Documents, Moscow, 1935, page 27).

The Treaty of Nonaggression and for the Peaceful Settlement of Disputes concluded between the Soviet Union and Finland on 21 January 1932 said: "Regarded as an attack will be any forcible action violating the integrity and inviolability of the territory or the political independence of the other High Contracting Party, even if it is committed without a declaration of war and without the usual manifestations of war" (op. cit., page 30).

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On 18 May 1931 the Soviet Government submitted to the European Commission of the League of Nations a draft protocol on economic nonaggression that stressed the need, in addition to a rejection of war as a means of settling international conflicts, for a complete cessation of all hidden or open forms of economic aggression of individual countries or groups of countries against any other country or group of countries. "The cessation of economic aggression," said the draft protocol, "is an essential prerequisite for the peaceful cooperation of states in the economic field irrespective of their systems" (Pravda, 20 May 1931).

Two years later, on 20 June 1933, the Soviet Government submitted to the London Economic Conference a draft protocol on economic nonaggression, Article 3 of which stated that the signatory states undertook to reject in the future under any pretext whatsoever as a tool of their trade policy the use of any special discriminatory tariffs established only for one country, of general import and export prohibitions established only for one country, or of special conditions for such import and export, of special railroad rates, special dues levied on freight vessels, special conditions for admitting economic organizations to their territory, and finally boycotts of any type directed against the trade of any country by governmental or administrative measures (Izvestiya, 21 June 1933).

These examples show that questions relating to the prohibition of both indirect and economic aggression had been repeatedly raised by the Soviet Government long before the Sixth and Seventh sessions of the UN General Assembly. The same can be said of ideological aggression. On 18 September 1947, at the plenary meeting of the Second Session of the UN General Assembly, the Soviet

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delegation submitted the following concrete proposal designed to prohibit ideological aggression in the form of war propaganda:

"1. The UN condemns the criminal propaganda for a new war being waged by reactionary circles in a number of countries, particularly in the United States, Turkey and Greece, through dissemination of all kinds of fabrications in the press, radio, movies, and public speeches, containing appeals for an attack on peace-loving democratic countries.

"2. The UN regards the tolerating, and all the more the supporting, of such propaganda for a new war, which would unavoidably turn into a third world war, as a violation of the obligation undertaken by members of the UN, whose Charter expects them "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace" and "not to endanger international peace and security and justice" (Art. 1, para. 2; Art. 2, para 3).

"3. The UN considers it necessary to call on the governments of all countries to prohibit, subject to criminal prosecution, the waging of any kind of war propaganda and to take measures designed to prevent and stop war propaganda as an activity dangerous to society and threatening the vital interests and the well-being of peace-loving peoples.

"4. The UN affirms the need for the speedy implementation of the General Assembly resolution of 14 December 1946 on disarmament and the General Assembly resolution of 24 January 1946 concerning the elimination from national armaments of atomic weapons and all other means of mass destruction, and holds that the implementation

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of these resolutions would be in the interest of all peace-loving peoples and constitute a major blow against propaganda and instigators of a new war" (Izvestiya, 20 September 1947).

The Soviet proposal for a prohibition of war propaganda was of major importance for the cause of universal peace and security of the peoples. In spite of opposition on the part of the imperialist powers, the Political Committee and the General Assembly of the UN adopted a resolution condemning any form of propaganda in any country "having the aim or being capable of creating or intensifying a threat to the peace, a violation of the peace and an act of aggression" (see Official Records of the Second Session of the General Assembly. Resolutions, 16 September-29 November 1947, page 14).

The demands of a number of states in the United Nations for the inclusion in a definition of aggression of the concepts of indirect, economic and ideological aggression thus coincided fully with the point of view of the Soviet Government.

Taking account of the wishes of the UN member states, the Soviet Government incorporated in the resolution submitted to the Special Committee in August 1953 a formulation of the definition of the concepts of indirect, economic and ideological aggression .

Indirect Aggression. According to the Soviet definition of aggression, a state will be said to have committed an act of indirect aggression if it (a) encourages subversive activity in another state (terrorist acts, diversions and so forth), (b) promotes development of a civil war in another state, and (c) promotes an internal coup in another state or a change in policy to the benefit of the aggressor.

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These activities constitute a violation of a major principle of international law, the principle of noninterference of a state in the internal affairs of another state. The Soviet definition thus includes under indirect aggression those forms of interference that are most dangerous and directly threaten the maintenance of international peace. The inclusion of the concept of indirect aggression as a component part of the definition of the concept of aggression is explained by the fact that in the last few decades the imperialist powers in their struggle against revolutionary and national liberation movements of the peoples of other countries have resorted to various forms of interference, organizing domestic coups and civil wars, giving financial and military aid to the reactionary forces of these countries and so forth. The internal coups and civil wars thus provoked by the great imperialist powers have led to tremendous human and material losses, causing great harm to the peoples of the world. Suffice it to mention the German-Italian intervention in Spain, the interference of the United States in the civil war in China and Korea, and the events in Indochina, Malaya, Burma, Tunisia, Morocco and the countries of Latin America.

Under these conditions, the struggle against precisely such forms of aggression as the encouragement of civil war, and the organization of plots and internal coups, terrorist acts, espionage and diversions on the territory of other states has assumed extraordinary significance for the cause of universal peace and the security of peoples.

Such activities have been regarded by the democratic states of the world as an act of aggression, but there was no legal basis for so labeling these activities in view of the lack of a generally

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accepted definition of the concept of aggression and because the principle of noninterference did not provide for any international sanctions against states violating that principle. Furthermore, some bourgeois jurists have tried to justify interference by a state in the internal affairs of another. Kelsen, for example, justifies interference by a foreign state in a civil war on the side of the legitimate government provided "the state gives its clearly expressed or tacit consent" (H. Kelsen, Recent Trends in the Law of the United Nations, London, 1951, page 934); Sibert holds that a state has not only the right to interfere but the "duty to interfere" on humane grounds to defend the "life, freedom, honor and property of individuals" (M. Sibert, Traite de droit international public, XI, Paris, 1951, pages 352-353).

Acts of states constituting indirect aggression must be subject to condemnation in international law.

As early as 1945, at the San Francisco Conference, Bolivia and the Philippines submitted draft definitions of aggression in which the enumeration of acts of aggression included interference by one state in the internal affairs or foreign affairs of another. "Interference in the internal affairs of another nation," said the Philippine draft, "by way of supplying arms, munitions, funds or giving any other assistance to any faction, group of armed units, or by way of organizing propaganda threatening the state establishments on its territory" (Documents of the United Nations. Conference on International Organization, San Francisco, 1945, Vol II, pages 497, 579, 585). However neither draft was debated because the question of defining the concept of aggression was not discussed at San Francisco in view of its complexity.

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In the course of the debate of the question in the UN at the Third Session of the International Law Commission (16 May - 27 July 1951) it was acknowledged that a definition of aggression must cover not only the open use of force by one state against another, but indirect aspects of aggression, such as: the promotion of internecine warfare by one state in another state, the arming by a state of organized bands having aggressive aims and so forth. The draft Code of Crimes Against the Peace and the Security of Mankind provided, in addition to other acts constituting international crimes, the following: "(5) the waging or encouraging by the authorities of any state of acts designed to promote internecine warfare in another state;" "(6) the waging or encouraging by the authorities of any state of terrorist acts in another state or the tolerating by the authorities of any state of organized acts designed to commit terrorist acts in another state" (Doklad Komissii mezhdunarodnogo prava o rabote yeye Tret'yey sessii c 16 maya po 27 iyulya 1951 goda [Report of the International Law Commission on the Work of Its Third Session from 16 May to 27 July 1951], New York, 1951, page 15).

What are the fundamental and determining aspects of the indirect form of aggression? How does indirect aggression differ from direct aggression?

In the opinion of the representatives of some capitalist states in the UN, the difference between the two forms of aggression lies in the fact that direct aggression presupposes the use of armed force while indirect aggression takes the form of "cold war." This viewpoint was voiced in particular by the Greek delegate Spiropoulos. In the opinion of the representative of Salvador, all depends on what sort of force is used by the

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aggressor state -- material or nonmaterial; material force is used in direct aggression and nonmaterial in indirect (Ofitsial'nyye otchety.., op. cit., 335th Meeting, para 11; 330th Meeting, para 13-14). The memorandum of the UN Secretariat says that the distinguishing feature of direct aggression is only "material" force since the territorial criterion is found both in direct aggression and in some forms of indirect aggression, the latter aiming usually at the same goal that is pursued by direct aggression, namely "the violation of the territorial inviolability and of the political independence of another state" (Doc. A/AC. 66/1, page 4).

Considerations of this kind do not conceal and cannot conceal the distinguishing features inherent in each of the two forms of aggression. The substitution of some words for others and the division of force into material and nonmaterial kinds does not explain but merely confuses the problem.

Direct aggression differs from indirect aggression not at all because in the first case the aggressor resorts to material, i.e., armed force, and in the second to nonmaterial. Material, or armed, force can also be used in indirect aggression.

This was demonstrated, for example, during the civil war in China by acts of the United States, which in addition to direct aggression also took the form of indirect aggression carried out by means of armed force: the supplying of American arms and munitions to the armed forces of the Kuomintang with the aim of repressing the national revolution in China.

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On the other hand, direct aggression can also be carried out without armed force and without the use of armed forces, as for example in the case of economic aggression.

The objective of any aggression is the political independence or territorial inviolability of another state. The encouraging of subversive activity directed against another state and the promotion of an internal coup in another state or of a shift in policy favoring the aggressor directly infringe on the political independence of the victim of aggression.

Indirect aggression is not termed "indirect" because it has an indirect relationship to the objective of the crime, i.e., to the national independence or territorial integrity of the victim of aggression. The term "indirect" does not apply to the objective, but to the means and acts used by a state in achieving its criminal aims, such as supplying a political party with funds, arms and munitions, organizing and supporting terrorist and diversionist groups, and so forth, with the aim of promoting a civil war and bringing about an internal coup in another state.

Direct aggression differs from indirect aggression chiefly because in the first case a state uses force directly and openly, and in the second case in a concealed manner, through indirect means, staying all the time behind the scenes.

If indirect aggression is to be included in a general definition of the concept of aggression, then the above-mentioned acts, together with a direct armed attack by one state on the territory of another, must be regarded as acts constituting an international crime against peace and the security of peoples.

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Economic Aggression. Such an aggression takes place when a state invades the sphere of economic and political independence of another state.

"A state will be said to have committed an act of economic aggression," says the Soviet definition, "if it is the first to commit one of the following acts:

"(a) exercises economic pressure violating the sovereignty of another state and its economic independence and threatening the bases of the economic life of that state;

"(b) takes measures with respect to another state interfering with the exploitation or nationalization by that state of its own natural resources;

"(c) subjects another state to economic blockade."

In considering these acts as economic aggression, the Soviet draft resolution is in full accordance with the principles and aims of the UN.

The UN General Assembly resolution of 21 December 1952 says that "the right of peoples to dispose freely of their natural wealth and resources and to exploit them freely is their inalienable sovereign right and corresponds to the aims and principles of the UN Charter."

The same General Assembly resolution recommends to all UN member states "to refrain from acts, whether direct or indirect, aimed at interference with the realization of the sovereign rights of any given state with respect to its natural wealth" (Ofitsial'nyye otchety.., Seventh Session, Supplement No 20/A/2361, page 22).

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It should be noted in this connection that the first conference of parliamentary representatives of legislative organs and of public leaders of the countries of Latin America, meeting in July 1954, favored parliamentary adoption of practical measures designed to protect natural resources against foreign, and chiefly North American monopolies.

The conference recognized the need for "adopting a declaration of the sovereign right of any people to confiscate, expropriate and exploit its own natural resources" (Mezhdunarodnaya zhizn' [International Life], 1955, No 9, page 56).

The question of responsibility for economic aggression on the part of imperialist monopolies and private capitalist companies and firms arises in connection with an analysis of Points (a) and (b) of Article 3 of the Soviet definition.

Only a state can be the subject of aggression as an international crime. However, we know that states often enter into economic and trade relationships with foreign capitalist monopolies and private capitalist companies, which must of course conform to the rules of international law. Does this situation contravene the Soviet definition of aggression, which is said to apply only to the acts of states?

It seems to us that there is no contradiction. In signing a convention on the definition of the concept of aggression, states would assume responsibility toward each other and the UN not only for their own acts but for any criminal acts of their citizens.

They would be obliged to see to it that the conditions of the convention are observed by all physical and juridical persons of their countries.

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Failure on the part of a signatory state to take steps against persons guilty of violating the convention can and must be regarded by the UN as criminal inaction calling for appropriate measures under international law. In this case, too, therefore the state would be the subject of the international crime.

In this connection signatory states would not be permitted to claim freedom of trade or the absence of a foreign trade monopoly in their countries as a pretext for avoiding international responsibility for the acts of private persons, nor would they be permitted to claim inability to interfere with trade and financial relations outside their territories.

The acts regarded in the Soviet definition as acts of economic aggression also include economic blockade, i.e., an economic isolation of the blockaded country for the purpose of disrupting its economy.

However, an economic blockade cannot in all cases be regarded as an act of economic aggression. For example, an economic blockade carried out by UN member states by decision of the Security Council under Article 39 and 41 of the Charter is a legitimate act. The same applies to economic blockade carried out by a victim of armed attack as part of individual or collective self-defense under Article 51 of the Charter.

According to the meaning of the Soviet definition of aggression, a state will be said to have committed an act of economic aggression if it is the first to subject another state to economic blockade.

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The Soviet inclusion of economic blockade in the definition of economic aggression is in full accordance with the principles and rules of international law that establish elementary conditions for the preservation of peaceful economic and commercial relations among all states and peoples of the world.

One of the most generally accepted principles of international law is the principle of the "open sea," according to which seas and oceans jointly used by all states of the world constitute a "joint highway for all nations" and therefore cannot be subjected to the authority of individual states. "There can be no doubt, except for certain special cases provided by international law, that ships in the open sea cannot be subjected to any authority except that of the state whose flag they are flying," said the Permanent Court of International Justice in a decision published 7 September 1927 in the Lotus case (Permanent Court of International Justice Publications, Ser A, No 10, page 25).

This principle was affirmed during World War II in the Atlantic Charter signed 14 August 1941 by President Roosevelt and approved by all members of the anti-Hitlerite coalition. According to Point 7 of the Atlantic Charter, a future peace "should grant to all the possibility of navigating seas and oceans freely and without any obstacles" (Vneshnyaya politika Sovetskogo Soyuza v period Otechestvennoy voyny [The Foreign Policy of the Soviet Union During the Patriotic War], Vol 1, Gospolitizdat, 1946, page 167). This point appears in all handbooks, courses and textbooks on international law.

Violation of the "open seas principle" has always been regarded as piracy, i.e., a serious crime that should be combatted by any state, whether the victim of the attack or not.

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"Even before the rise of international law in its modern form," says L. Oppenheim in his course on international law, "a pirate was regarded as an outlaw and as an enemy of mankind... According to international law, a person committing an act of piracy loses the protection of its own state and thus its citizenship and his ship is deprived of the right of flying the flag of the given state. Piracy is a so-called international crime and the pirate is regarded as an enemy of very state and can be put on trial by anyone of them" (L. Oppenheim, Mezhdunarodnoye pravo [International Law], Vol I, Part 2, IL, Moscow, 1949, page 180).

The practice of international relations in recent years has shown that piracy on the part of private individuals and bands has given way to organized piracy by certain imperialist states aimed at the economic and political subjugation of other states and peoples.

Economic blockade carried on in times of peace by one state against another state is a veiled form of piracy, a kind of maritime highway robbery, a crime against the peace and security of peoples. The Soviet definition of aggression labels such acts as acts of economic aggression.

Ideological Aggression. Ideological aggression is a special form of aggression. It aims at the preparation of armed aggression against other peoples and states by encouraging war propaganda and the use of atomic, bacteriological, chemical and other means of mass destruction, by disseminating Fascist and Nazi views on racial and national superiority, and hate and defiance of other peoples.

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Ideological aggression, just like other forms of aggression (armed, indirect and economic), constitutes a separate type of international crime.

Ideological aggression is designed to create conditions for the perpetration of further and more dangerous criminal acts, such as armed aggression, but ideological aggression nevertheless constitutes a completed crime in itself.

The aim of ideological aggression is to prepare the people of a given country for war against other peoples and states, to arm them, so to say, ideologically, to justify an arms race, and to accustom people to the idea of the need and unavoidability of war in the future.

Can all these acts be regarded as an uncompleted crime pending the actual perpetration of the armed aggression at the preparation of which the ideological aggression was aimed? Of course, not. The entire point in labeling ideological aggression as an international crime is precisely to prevent a new aggressive war from getting started. To regard ideological aggression merely as a stage in the preparation of a crime, in this case the perpetration of armed aggression, rather than as a crime in itself means simply to wait for a war.

History has shown that aggressive states (Hitlerite Germany, militarist Japan) were made to answer for their crimes only after they had caused the death of millions of people and the destruction of hundreds and thousands of towns and villages.

The point is that without waiting for a new war to start steps should be taken in times of peace to prevent or greatly

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hinder the preparation of a new war, including ideological preparation.

Ideological aggression is carried on by states dominated by ideas of militarism, as was the case with Hitlerite Germany, militarist Japan and Fascist Italy.

We know that in the indictments of the German and Japanese war criminals war propaganda and the dissemination of hateful racial theories were cited as proof that the accused were guilty of ideological preparation of an aggressive war that inflicted tremendous human and material losses on mankind.

For their crimes in that field the ruling circles of Hitlerite Germany and militarist Japan were punished only after their countries had been defeated.

Propaganda for a new war is extremely dangerous for the cause of universal peace and the security of peoples, and the UN is therefore bound to take measures that would eliminate any possibility of such propaganda.

States instigating war propaganda, encouraging such propaganda or failing to take steps against citizens guilty of such propaganda must bear international responsibility as states guilty of having committed an international crime, in this case an act of ideological aggression. This would greatly aid the UN in its fight for peace and universal security and promote an atmosphere of friendship and confidence among the peoples of states having different social and economic systems, while isolating those who prepare a new aggressive war.

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International law rules providing responsibility for ideological aggression are all the more necessary because soon after the sentencing of those found guilty of having started World War II by the international military tribunals in Nuremberg and Tokyo the reactionary circles of certain capitalist states began, together with an intensified arms race, to carry on the ideological preparation of the people for a new aggressive war against the Soviet Union and the people's democracies of Europe and Asia.

The Soviet delegation, basing itself on the UN Charter and on the decisions of the UN, submitted to the General Assembly in the interest of strengthening the peace a proposal condemning criminal propaganda for another war by disseminating all sorts of fabrications through the press, radio, movies, and public addresses containing open appeals for attack on peace-loving democratic countries.

The Soviet draft resolution proposed that the permitting and, all the more, the supporting of any kind of propaganda for another war, which would unavoidably turn into a third world war, be regarded as a violation of obligations assumed by members of the UN.

"The United Nations," says the draft resolution, "considers it essential to call on the governments of all countries to prohibit subject to criminal prosecution, the waging of any kind of war propaganda and to take measures designed to prevent and stop war propaganda as an activity dangerous to society and threatening the vital interests and the well-being of peace-loving peoples."

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The moral and practical significance of the Soviet proposals for the cause of peace cannot be disputed. They point out the most characteristic feature of war propaganda: statements in any form containing calls for war; they provide a juridical appraisal of war propaganda as an activity endangering society, threatening the vital interests and the well-being of peace-loving peoples, and leading unavoidably to a third world war; they provide for specific ways of combatting war propaganda -- by prohibiting war propaganda subject to criminal prosecution through adoption by the states of appropriate criminal legislation, and, finally, they take note of the fact that the tolerating and, all the more, the supporting of any kind of war propaganda by UN members constitute a violation of the obligations assumed by members of the UN, a violation of the UN Charter. The Soviet proposals, A. N. Traynin says in this connection in his book Ugolovnaya otvetstvennost' za propagandu agressii, contain measures directed both against states that tolerate and support war propaganda and against physical persons who conduct such propaganda. The proposals of the Soviet delegation thus quite properly combine the political responsibility of states with the criminal responsibility of physical persons (A. N. Traynin, Ugolvnaya otvetstvennost' za propagandu agressii [Criminal Responsibility for Propaganda of Aggression], RIO VYuA, Moscow, 1947, pages 26-27).

On 3 November 1947 the UN General Assembly adopted a resolution condemning war propaganda in any form.

"The General Assembly," the resolution says, "condemns any form of propaganda in any country having the aim or being capable of creating or intensifying a threat to the peace, a violation of the peace and an act of aggression.

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"Proposes to the governments of all members to take appropriate steps within the framework of their laws to : (a) encourage all media of information and propaganda under their control to promote friendly relations among states on the basis of the aims and principle of the Charter, and (b) encourage the dissemination of all information expressing the undoubted desire of peace on the part of all peoples" (Official Records of the Second Session of the General Assembly, Resolutions, 16 September - 29 November 1947, page 14).

The resolution of the UN General Assembly does not cover all problems touched on by the Soviet delegation but it does adequately express the fundamental idea of the Soviet proposals, which is to condemn war propaganda in any form and to combat the instigators of a new war.

The Soviet proposals in the UN for a prohibition of war propaganda were widely supported by millions of peace partisans.

Demands for a prohibition of criminal war propaganda were adopted by the World Congress of Cultural Leaders in Defense of Peace (1948), the Congress of the Association of Democratic Jurists, the Executive Committee of the International Journalists Organization in Budapest, and the First World Congress of Peace Partisans in Paris and Prague (April 1949).

The Second World Congress of Peace Partisans, meeting in Warsaw in November 1950, adopted in the name of 80 countries of the world a resolution directed against war propaganda.

"The Second World Congress of Peace Partisans," the resolution said, "noting that propaganda for a new war is creating a major threat to the peaceful collaboration of peoples and that such propaganda constitutes one of the most serious crimes against

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mankind, appeals to all parliaments to adopt a law on the protection of peace, providing criminal responsibility for war propaganda in any form whatsoever" (Vtoroy Vsemirnyy Kongress storonnikov mira, Varshava, 16-22 noyabrya 1950 g. (Materialy) [The Second World Congress of Peace Partisans, Warsaw, 16 to 22 November 1950 (Proceedings)], Gospolitizdat, 1951, page 524).

The appeal of the Second World Congress of Peace Partisans was widely supported by the governments of the democratic countries.

Laws on the defense of peace were adopted by the State Assembly of the Ungarian People's Republic (8 December 1950), the Grand National Assembly of the Rumanian People's Republic and the People's Chamber of the German Democratic Republic (15 December 1950), the National Assembly of the Czechoslovak Republic (20 December 1950), the People's Assembly of the People's Republic of Bulgaria (25 December 1950), the Legislative Sejm of the Polish People's Republic (29 December 1950), the People's Assembly of the People's Republic of Albania (10 January 1951) and the Presidium of the Little Khural of the Mongolian People's Republic (27 February 1951) (Zakony o zashchite mira [Laws on the Defense of Peace, Moscow, Gosyurizdat, 1953; M. Lazarev, "The Principles of Peace, Friendship and Security of Peoples in the Legislation of the People's Democracies," Mezhdunarodnaya zhizn' [International Life], 1955, No 5).

The law on the defense of peace adopted 12 March 1951 by the Supreme Soviet USSR states:

"The Supreme Soviet of the Union of Soviet Socialist Republics, guided by the high principles of the Soviet peace-loving policy, which pursues the aim of strengthening peace and friendly relations among peoples, recognizes that the conscience and sense

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of justice of the peoples, which have suffered the calamity of two world wars in the course of one generation, cannot tolerate the war propaganda being conducted with impunity by the aggressive circles of certain states and joins the appeal of the Second World Congress of Peace Partisans, which expresses the will of all progressive mankind with regard to a prohibition and condemnation of criminal war propaganda.

"The Supreme Soviet of the Union of Soviet Socialist Republics resolves:

"1. To hold that war propaganda, no matter in what form, undermines the cause of peace, creates the threat of a new war and therefore constitutes a serious crime against mankind.

"2. To indict persons guilty of war propaganda and to try them as major criminal offenders" (Vedomosti Verkhovnogo Soveta Soyuza Sovetskikh Sotsialisticheskikh Respublik [Gazette of the Supreme Soviet of the Union of Soviet Socialist Republics], No 5 (662), 21 March 1951).

The adoption of laws on the defense of peace by the Soviet Union and the people's democracies is of great importance for the cause of universal peace and the security of peoples. They are promoting a relaxation of international tension and the establishment of friendship and mutual understanding among all peoples of the world.

In opposing the prohibition of war propaganda, some imperialist states seek to justify their position with the argument that the prohibition of the conduct of war propaganda in any form under penalty of law and the adoption of measures aimed at stopping such propaganda would be incompatible with the basic rights of man and with the freedom of speech and the press, and would require

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the establishment of censorship and strict control over the press, public addresses, the radioand the movies.

The baselessness of this argument is quite obvious. The need for prohibiting war propaganda is dictated exclusively by the interests of the peoples and therefore cannot be considered as contradicting either the basic rights of man or the so-called freedom of speech and the press. As for censorship or control over speech and the press, they exist anyway in all capitalist countries without exception.

As early as 1881 France issued a law "on freedom of the press" establishing criminal responsibility for inciting the perpetration of crimes through the medium of the press, posters and placards (Article 23). Article 24 of the same law provides prison terms of one to five years and fines of 100 to 3,000 francs for anyone who uses the press to call for murder, robbery, arson or theft (A. N. Traynin, Ugolovnaya otvetstvennost' za propagandu agressii, RIO VYuA, 1947, page 16).

Capitalist states also prohibit under penalty of law the dissemination of obscene literature and illustrations and their transmission through the mails; obscene language in radio broadcasts is also prohibited.

The Criminal Code of the United States, for example, provides for the above-mentioned crimes (Chapter 18, Section 335) a fine of up to $5,000 or a prison term of up to five years or both.

Britain has a special theatrical censorship passing beforehand on the showing of stage plays and films.

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The criminal code of the state of New York (Section 421) regards as a criminally punishable offense the publication or dissemination by any person, firm, corporation or association of trade announcements containing false, misleading or deceiving information (A. Ya Vyshinskiy, Voprosy mezhdunarodnogo parva i mezhdunarodnoy politiki [Problems of International Law and International Politics], Gosyurizdat, Moscow, 1949, pages 200-202).

The question thus arises why criminal action is permissible against persons using freedom of speech and the press to defraud and in that case does not contradict the basic rights of man, while criminal action against persons guilty of war propaganda, of inciting others to the mass extermination of people and the destruction of entire peoples and states is not permissible?

Furthermore the criminal codes of capitalist countries do contain special articles directed against persons conducting propaganda of aggression. Suffice it to cite Article 163-A of the Cuban Code for the Defense of Public Order of 1936. "Any person who openly incites the Cuban people to wage an aggressive war against another people," the article says, "is liable to loss of freedom for from one to three years" (Luis Carlos Perez, Prestupleniye voyennoy propagandy [The Crime of War Propaganda], IL, Moscow, 1953, page 72).

Thus there is no justification for the argument that criminal prohibition of war propaganda is a violation of the democratic principle of freedom of speech and of the press.

An analysis of the draft definition submitted in 1953 by the Soviet Government to the UN, including the concepts of indirect, economic and ideological aggression, shows that the Soviet definition is based on realistic considerations rather than "juridical factors."

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The Soviet proposals have received the wide support of many states. An armed attack, in the view of the representative of Iran, is only part of the very complex activities that an aggressor can engage in, and it is well known that powerful and experienced states do not always resort to crude force to achieve their aggressive aims. Former generations gave no though to economic aggression, but in our time it would be completely unrealistic not to recognize the fact that economic measures can constitute aggression and not to condemn economic aggression together with other forms of aggression.

Economic and political measures, carried out for purposes of compulsion and directed either directly or indirectly against a state for the purpose of interfering with its sovereign rights with regard to its own natural resources or the realization of measures for economic development, the Iranian representative continued, are the major factors of economic aggression. Economic blockade is another means of economic aggression deserving the same censure (Doc A/AC. 66/SR. 9, page 11; Doc. A/AC. 66/SR. 3, page 4).

Inclusion of economic and ideological aggression in the definition of aggression was also favored by the representative of Syria, who noted that economic aggression is a form of violation of state sovereignty. Such a violation, the Syrian representative said, must be prohibited: measures undertaken by a state to prevent another state from exploiting its own natural resources or nationalizing its enterprises, even if foreign capital was invested in them, must be defined as aggression (Doc. A/C. 6/SR. 407).

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In the debate of the report of the Special Committee at the Ninth Session of the UN General Assembly, the representatives of some states, without denying the importance of defining such forms of aggression as indirect, economic and ideological aggression, suggested that in the given state the Special Committee concentrate its attention on the definition of the concept of armed aggression.

In its narrow meaning the word "aggression," said the Cuban representative, means only armed aggression or a similar act; in its wider meaning that term includes the concept of economic and ideological aggression, the organization of subversive activities and so forth. The UN should first limit its definition of aggression to its narrow meaning, i.e., armed aggression, and define the other forms of aggression after having studied the draft Code of Crimes Against Peace and Security, the Cuban representative suggested.

Similar views were expressed by the representatives of Greece, the Philippines and other states (Doc. A/C. 6/SR. 403, 409 and 411).

Representatives of the colonial powers -- the United States, Britain, France and the Netherlands -- opposed the inclusion of indirect, economic and ideological aggression in the definition of the concept of aggression.

In the view of the Dutch representative, the introduction of the elements of economic and ideological aggression in the concept of aggression would be going too far afield. He felt that an attempt to widen the concept of aggression excessively might weaken it altogether. "There are measures of an economic nature,"

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said the Dutch representative, "that should be censured, but if they are equated to aggression then the seriousness of the concept of aggression would be lessened" (Doc. A/AC. 66/SR. 9, page 21).

The French representative, conceding that economic pressure constitutes an encroachment on the political independence of a state, found it nevertheless possible to declare that "economic pressure is not an element of aggression." In his opinion, economic pressure belongs rather to the category of threats to the peace under Article 39 of the UN Charter.

The British representative opposed the draft resolution of the USSR on the ground that, in his view, economic and ideological aggression did not constitute acts of aggression in the sense understood in Article 39 of the Charter. "The definition," he said, "would suffer from a lack of precision and would be difficult to apply. The inconsistencies of that kind of a definition are quite evident in the draft of the Soviet Union." As an example, the British delegate cited the formulation of Point (a) of Article 3 of the definition: "..the phrase 'exercises economic pressure' is qualified by the words 'threatening the bases of the economic life of that state' or by the words 'violating the sovereignty of another state or its economic independence,' or by both groups of words." If the Security Council were to try to apply that kind of a definition, it would get confused, the British delegate said (Doc. A/AC. 66/SR. 13, pages 6-7).

Speaking in opposition to the inclusion of the concepts of economic and ideological aggression in the definition of aggression, the US delegate said that before any discussion of the substance of the question there had to be agreement on a definition of the

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word "propaganda." "What might be called propaganda in one country," he said, "might be simply an expression of freedom of the press in another country" (Doc. A/AC. 66/SR. 9, page 15).

It is not difficult to see that the remarks advanced above by delegates of the imperialist states do not contain any serious arguments of a juridical or political character. The Dutch delegate, for example, is inconsistent in declaring that the inclusion of the concepts of ideological and economic aggression in the definition of aggression would diminish the seriousness of the concept of aggression.

Armed aggression is an self-contained concept. The method of perpetration and the juridical consequences of armed aggression differ from all other forms of aggression. To label certain state activities such as the encouraging of war propaganda and of the use of weapons of mass destruction as ideological aggression could not possibly diminish the importance of the danger of armed aggression. On the contrary, the importance of the struggle against armed aggression would be greatly enhanced since not only armed aggression, as the most dangerous form of aggression, but any activities aimed at the ideological preparation of aggression would be exposed to universal condemnation.

The fear of the British delegate that the formulation of the Soviet definition might "confuse" the Security Council is also unfounded. The concept of economic aggression as such would not be a subject for discussion by the Security Council. When faced with the need of applying the concept, the Security Council will have before it a certain set of facts, the specific activities of a state regarded by the accusing side as activities constituting an act of economic aggression. Obviously in such a case the Security

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Council would have to decide the basic question of whether the activities of the alleged aggressor come within the concept of economic aggression given in the definition, i.e., did economic pressure take place, and in case of the affirmative, the Security Council would have to establish the degree of the inflicted damage: whether the activities of the aggressor state violated the sovereignty or the economic independence of the other state.

Out of all the arguments presented by delegates opposing the inclusion of forms other than armed aggression in the definition of aggression, the following remarks by the Dutch and Mexican delegates are of some theoretical interest.

From the point of view of the Dutch delegate (Doc. A/AC. 66/SR. 13 page 10), the inclusion of the concept of economic aggression in the definition could be justified only in the states victims of economic aggression possessed the right to individual or collective self-defense. Since UN member states do not possess that right, there is no basis for including economic aggression in the definition, all the more since the Security Council already has the right to take decisions with respect to economic measures constituting a threat to the peace. The inclusion of the concept of economic aggression in the definition would merely serve to intensify present international tension in view of the lack of agreement among the UN member states as to what constitutes economic aggression.

According to the Soviet definition, a state victim of economic aggression does not have the right to individual or collective self-defense under Article 51 of the UN Charter. The same applies to cases of indirect and ideological aggression. States acquire the right to self-defense only in case of armed aggression.

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However this circumstance cannot serve as a gound for excluding other forms of aggression, such as economic, from the general definition of the concept of aggression.

The term "aggression" is being used by the Dutch delegate only in the sense of armed aggression with all the consequences deriving from it. In his opinion, if the UN is prepared to label certain activities of states as aggression, it must also grant to the states the right to individual or collective self-defense. In this connection, let us look at the UN Charter. Article 39 of the Charter states that the Security Council shall determine the existence of any act of aggression and shall make recommendations or decide what measures shall be taken in accordance with Article 41 and 42 to maintain or restore international peace and security. At the same time, according to Article 51, the Charter grants UN members the right of individual or collective self-defense only if an armed attack occurs, i.e., in case of armed aggression.

Consequently the concept "aggression" in the UN Charter is not limited to the concept of armed aggression, and there are other acts of aggression against which the Security Council can undertake measures under Article 41 and 42. However the Charter does limit the states right of individual or collective self-defense to the case of armed aggression.

The Soviet definition is in complete accord with these provisions of the Charter. The definition formulates the concepts of several forms of aggression (indirect, economic and ideological) against which the Security Council, under Article 39, is empowered to take measures, but the existence of which does not grant the right of individual or collective self-defense.

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As for the statements of the Dutch and Mexican delegates that the Security Council already has the right to proceed against acts of an economic and ideological character constituting a threat to the peace and that there is no need therefore to introduce the concepts of these forms of aggression, the following might be said: There is need for distinguishing between two questions -- the question of the juridical labeling of certain illegal activities of states as activities coming under the heading of aggression, and the question of the concept of threats to international peace.

The target of aggression as an international crime is the territorial inviolability and the economic and political independence of another state.

The activities of states enumerated in Article 3 of the Soviet definition are labeled acts of aggression precisely because they violate the territorial inviolability and the economic and political independence of another state.

A threat to the peace, on the other hand, constitutes an international situation that, if continued, might lead to a general violation of the peace.

The existence and continuation of state activities such as indirect, economic and ideological aggression, together with other illegal activities, might lead to a general violation of the peace, and in that sense they can and must be regarded as a threat to the peace. But the fact that economic or ideological aggression can also be regarded as a threat to the peace does not necessarily mean that these activities cease to constitute aggression.

In other words, the activities enumerated in the Soviet definition can be regarded from two points of view: (a) from the

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point of view of their juridical label, and (b) from the point of view of the danger that they represent for the cause of universal peace and the security of peoples.

The Soviet definition provides a juridical label for activities endangering the cause of peace that are enumerated in Articles 2, 3, and 4. These activities are to be regarded as acts of aggression.

The Soviet definition of the concept of aggression is in full accord with the provisions of the UN Charter. Article 13 of the Charter says that the General Assembly shall initiate studies and make recommendations for the purpose of "promoting international cooperation in the political field and encouraging the progressive development of international law and its codification." The Soviet definition seeks to achieve that purpose. Its adoption would help strengthen peaceful relations between all states of the world and constitute a definite contribution to the progressive development of international law.

CHAPTER III. INTERNATIONAL SANCTIONS AND SELF-DEFENSE MEASURES OF STATES IN CASES OF AGGRESSION

In the preceding chapters we have discussed questions relating to the definition of the concept of aggression and aggressor. The need for defining aggression has been dictated by the desire of peace-loving states to have the UN establish guiding principles for determining the party guilty of aggression. Such a definition would promote the development of international law, support the principles of the UN Charter, constitute a serious warning to any future aggressor, and greatly simplify the task of the Security Council, which is the organ bearing chief responsibility for the maintenance of international peace and security.

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However a definition of the concept of aggression alone, no matter how complete, would not by itself eliminate the threat of another war and other acts of aggression by individual member states of the UN.

The UN is called upon to insure peace and the security of peoples; it must not permit a new aggressive war to arise, and if a war does arise, it must stop it at the very start and not allow it to develop into a major war.

Aggressive wars constitute a major evil against which the efforts of all states and peoples of the world without exception should be directed. Peace is not only a blessing, it is an inalienable right of peoples, a right confirmed in the UN Charter and in other major international law documents of our times.

A prohibition of aggressive wars and of other acts of aggression would be incomplete, and the right of peoples for peace and universal security would be unreliable and ineffective, if no account were taken of the responsibility of states for violation of the above-mentioned standards of international law. With that aim the UN Charter provides a system of compulsory measures of a political, economic and military character -- the so-called international sanctions and the right of states to individual and collective self-defense.

1. International Sanctions Provided by the UN Charter

The term sanctions in international law is applied to measures of a compulsory character, carried out by the UN with the aim of maintaining or re-establishing international peace and security.

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According to the UN Charter, the right to apply compulsory measures (international sanctions) against states that violate the Charter by committing a threat to the peace, breach of the peace or an act of aggression belongs exclusively to the Security Council. The General Assembly is empowered to discuss any questions relating to the maintenance of international peace and security and to make recommendations in that connection; however, when the question discussed by the General Assembly requires action, the General Assembly is required to refer the question to the Security Council. "Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion," says Article 11 Point 2 of the Charter.

Article 12 of the Charter establishes that, while the Security Council is considering any dispute or situation, the General Assembly cannot make any recommendations with regard to that dispute or situation unless the Security Council so requests.

The Security Council is thus the only organ of the UN empowered to determine the existence of conditions requiring the application of international sanctions and to decide the question of their application.

"The Security Council," says Article 39 of the Charter, "shall determine the existence of any threat of the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41 and 42, to maintain or restore international peace and security." A decision of the Security Council establishing the existence of facts constituting a threat to the peace, breach of the peace, or

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act of aggression, recommendations and a decision on the question of the use of international sanctions shall be made by an affirmative vote of seven members, including the concurring votes of all permanent members (Point 3 of Article 27 of the UN Charter).

A decision by members of the Security Council taken in the absence of one of the permanent members is therefore a major violation of the UN Charter and illegal.

With the aim of maintaining or restoring international peace and security, the UN Charter provides two types of international sanctions: sanctions not involving the use of armed force (Article 41) and military sanctions (Article 42).

Both types of sanctions are compulsory for all states members of the UN.

Point 1 of Article 48 of the Charter grants the Security Council the right to determine whether international sanctions are to be taken by all members of the UN or by some of them. This Charter provision says: The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the members of the United Nations or by some of them, as the Security Council may determine."

These provisions of the Charter can refer only to military sanctions, i.e., to measures under Article 42, since international sanctions taken under Article 41 of the Charter can be effective only under the condition that they are applied by all the members of the UN, while in the application of military sanctions it is sufficient to call on the armed forces of the permanent members of the Security Council and of states bordering on the territory of the aggressor or his victim.

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Sanctions not involving the use of armed force may include a complete or partial break of economic relations, railroad, ship, air, mail, telegraphic, radio or other means of transportation and communication, as well as a break of diplomatic relations.

Complete break of economic relations means full economic blockade of the guilty state by all member states of the UN.

States that are not members of the UN formally may not take part in the blockade, but in actual fact they would be forced to curtail substantially if not to stop altogether their economic and financial dealings with the guilty state since, in addition to a prohibition on the import and export of goods, a complete break of economic relations also presumes the closing down of the major water transportation routes linking the blockaded state with the outside world, as well as the prohibition of the transit through the territory of UN member states of goods originating in or consigned to the blockaded country.

A complete break of economic relations may create economic hardships both for member states and nonmembers of the UN. In view of this, Article 50 of the Charter says that the states have the right to consult the Security Council with regard to a solution of problems arising from the carrying out of international sanctions.

A decision of the Security Council on the application of international sanctions in the form of a complete break of economic relations, in our view, obligates UN members as of the effective date stated in the Council decision to take the following measures:

1. To prohibit the export, re-export or transit of goods and raw materials to the territory of the guilty state or its possessions.

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2. To prohibit the import of goods and raw materials, directly or indirectly, completely or partly belonging to the guilty state or to actual or legal persons residing on the territory of that state or of states nonmembers of the UN:

3. To stop the implementation of economic and financial obligations deriving from trade or financial contracts and agreements previously made between appropriate state organs or actual or legal persons residing in the territory of the given UN member, on the one hand, and organs of the guilty state or actual or legal persons residing in the territory of that state or its possessions or states nonmembers of the UN, on the other hand.

4. To sequester all assets of the guilty state, its citizens and legal persons found in the territory of the given UN member or its possessions.

5. To issue a special law providing severe punishment for persons guilty of violating the above-mentioned measures.

A complete break of economic relations would also involve a break in means of transportation since such a complete break of economic relations in effect renders useless the right of the guilty states to freedom of navigation in "open seas," on international rivers, and through straits and canals, since no port of a UN member would admit the vessels of such a state into its waters. The same would be true of international railroad accords (the carrying of freight, passengers and baggage) since a complete break of economic relations would void any relevant conventions and agreements insofar as the guilty state is concerned.

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A complete break of economic relations with a guilty state is a measure compulsory for all UN members. The Security Council does not have the right to free individual UN members of the obligation to carry out these sanctions.

A partial break of economic relations does not mean that some UN member states break economic and financial relations with the guilty state while others continue to maintain such relations in full, or that economic and financial relations are maintained by UN member states at less than their full scope, meaning that obligations under export and import agreements are carried out only in part, that orders for industrial goods are filled only in part, or that loans or credits are granted only in part. A partial break of economic relations means that the Security Council by its decision prohibits the export, re-export and transit to the country against which the sanctions are directed of goods and raw materials of a certain category essential to the country, and especially to its military needs.

It would be advisable that the Security Council or a special organ designated by it draw up a list of goods and raw materials of a strategic character, the export of which to the guilty state would be prohibited in all cases and with respect to any state as soon as the Security Council reaches a decision on a partial break of economic relations.

We know, for example, that the decision of the League of Nations on the application of economic sanctions with regard to Italy was not successful, in part because the League of Nations did not prohibit the import of petroleum, coal and metals into Italy. This weakened the effect of the economic sanctions from

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the very start. Italy lacked its own raw material bases: it did not have any petroleum, coal, iron ore and many nonferrous metals. The import prohibition on strategic raw materials would have greatly affected Italy's capacity to wage war.

A partial break of economic relations is also compulsory for all UN members. In this case, too, the Security Council is not empowered to free individual UN members of the obligation to apply the above-mentioned sanctions.

Military sanctions are provided under Article 42 of the Charter.

"Should the Security Council," says that article, "consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of members of the United Nations."

The following question arises in an analysis of Article 42 of the Charter: can the Security Council apply military sanctions without having previously carried out measures under Article 41 of the Charter?

In commenting on Point 3 of Article 16 of the Covenant of the League of Nations, the report on economic weapons submitted 21 September 1921 by the Third Commission of the Second League Assembly states that military sanctions must be applied after all other less severe measures undertaken by members of the League failed to yield positive results. Military sanctions, the report says, must be used only if the "guilty state persists in its covenant-breaking position."

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What is the position of the UN Charter on that point?

Article 42 of the Charter provides that military sanctions may be applied in two cases: when the Security Council finds that measures provided for in Article 41 would be inadequate or have proved to be inadequate, i.e., military sanctions may be applied both in the process of implementation by the Security Council of measures not involving the use of armed force and directly, as a first measure, absorbing all other forms of sanctions provided for in the Charter.

In making decisions on whether to adopt measures required to maintain or restore international peace and security, the Security Council is not bound in any way by any order of priority or sequence in the application of international sanctions. The Security Council evaluates the degree of danger any given situation poses for international peace and security and is free accordingly to apply any sanctions it considers necessary.

For the purpose of speedy and effective application of military sanctions, Article 43 of the UN Charter obligates all members of the organization "to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance and facilities, including right of passage."

Such agreements shall govern "the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

The agreement or agreements shall be negotiated on the initiative of the Security Council and shall be concluded between the Security Council and members or between the Security Council and

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groups of members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 45 of the Charter obligates members "to hold immediately available national air force contingents for combined international enforcement action."

The Security Council with the assistance of the Military Staff Committee shall determine the strength and degree of readiness of these contingents and plans for their combined action.

The armed forces of the UN must consist primarily of the land, sea and air forces of the five permanent member state of the Security Council.

The permanent member states of the Security Council have equal rights and obligations in the Security Council and could therefore furnish to the Security Council armed forces identical in strength and composition, including identical number of land, sea and air units.

The Soviet proposal submitted in this connection to the Military Staff Committee says:

"The permanent members of the Security Council shall furnish armed forces (land, sea and air) on a principle of equality with respect to their strength and composition. Exceptions from the principle shall be permitted by special decision of the Security Council if a permanent member of the Security Council so desires" (Pravda, 8 June 1947).

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Exceptions from the principle of equality shall be permitted only by special decision of the Security Council and if a permanent member so desires.

Questions relating to the provisions of Article 43 of the UN Charter are essentially organizational in character and are not decisive insofar as the maintenance of international peace and security is concerned. The UN Charter provides the given procedure pending the negotiation of armed forces agreements between the Security Council and the members of the UN. Article 109 of Chapter XVII of the UN Charter on transitional security arrangements says that pending the coming into force of the special agreements referred to in Article 43 "the parties of the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall in accordance with the provisions of Paragraph 5 of that Declaration, consult with one another and as occasion requires with other members of the United Nations with a view to such joint action on behalf of the organization as may be necessary for the purpose of maintaining international peace and security."

The provisions of the UN Charter relating to enforcement measures carried out on behalf of the organization are distinguished by unusual clarity and definiteness. The UN Charter takes account of all aspects of the activities of the organization in that field.

The provisions are essentially as follows:

(1) The only UN organ empowered to adopt decisions on the application of international sanctions or any other actions against states or groups of states members of the organization is the Security Council. These decisions have the force of law if they are supported by the affirmative vote of seven council members, including the concurring votes of all permanent members.

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(2) The armed forces of the UN provided for in Article 43 and 45 of the Charter must be under the exclusive control of the Security Council.

(3) The General Assembly has the right to discuss any question relating to the maintenance of international peace and security and to make appropriate recommendations to an interested state or states or to the Security Council. However any question requiring action must be referred to the Security Council by the General Assembly before or after discussion.

An attempt was made at the Fifth Session of the General Assembly in October, 1950, to liquidate the above-mentioned principles; a draft resolution was submitted to the General Assembly by seven states (the US, Britain, France, Canada, Turkey, the Philippines and Uruguay) bearing the title "Uniting for Peace." The draft proposed that if the Security Council, because of lack of unanimity of the permanent members, is unable to exercise its responsibility for the maintenance of international peace and security, the General Assembly may be called into special session within 24 hours upon the request of any seven members of the Security Council to discuss the existing situation and adopt recommendations for collective measures, including international military sanctions.

The draft resolution proposed that each UN member maintain within its national armed forces elements that could be made available upon recommendation of the General Assembly.

The authors of the draft resolution proclaimed their desire to strengthen the UN, to eliminate shortcomings and so forth. In actual fact, the draft resolution of the "seven" not only did not

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strengthen the UN, but on the contrary weakened it by reducing the rights of the Security Council and taking away its main responsibility for the maintenance of international peace and security.

In a speech delivered 10 October 1950 in the Permanent Committee of the General Assembly, A. Ya. Vyshinskiy, criticizing the draft resolution of the "seven," said: "The adoption of this resolution would mean nothing but an usurpation of the rights of the Security Council. It would thus be a violation of Chapter VII of the Charter, which provides for the furnishing of members' armed forces to the jurisdiction not of the General Assembly but of the Security Council, which is advised and assisted by the Military Staff Committee...

"Under this draft resolution each state would keep certain armed forces in readiness pending a call to 'action'. Whose call? Not the Military Staff Committee's, not the Security Council's, as the UN Charter provides in Chapter VII. They would await and carry out the 'recommendations' of the General Assembly. The General Assembly would 'recommend'.. But what happened to the Security Council, what happened to the Military Staff Committee? They are being left on the side. Instead it will be up to the General Assembly and to the Secretary General!

"But, may I ask you, where does the Charter say that the General assembly has the right to recommend the use of troops? That is not provided for in the Charter, you would not find any such article in the Charter. The General Assembly has the right to recommend in general everything, except what is listed in Article 11. And Article 11 says that any question on which action is necessary, and that means action by military forces, shall be referred to the Security Council...

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"In other words, this proposal of the 'seven' is in fundamental contradiction to the Charter. It completely eliminates the Military Staff Committee and the Security Council. It transfers their rights to the General Assembly" (Pravda, 14 October 1950).

At the Fifth Session of the General Assembly, in the course of the general discussion, the Soviet delegation submitted on 11 October 1950 to the Political Committee two draft resolutions that were in full accordance with the UN Charter and were designed exclusively to maintain international peace and security.

"The General Assembly," said the first draft resolution, "recognizing the special importance of concerted action by the five permanent members of the Security Council in the defense and strengthening of peace and security of the peoples,

"Recommends that, pending the assignment to the jurisdiction of the Security Council of armed forces under agreements provided for in Article 43 of the Charter, the five permanent members of the Security Council -- USSR, US, Britain, China and France -- take measures to implement Article 106 of the Charter, which provides for consultation among them, and consult with one another in accordance with said Article 106 with a view to such joint action on behalf of the organization as may be necessary to maintain international peace and security."

The second Soviet draft resolution said:

"With a view to maintaining international peace and security in accordance with the UN Charter, and specifically with Chapters 5, 6 and 7 of the Charter.

"The General Assembly recommends to the Security Council:

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"To take necessary steps to insure the implementation of measures provided for by the Charter in case of the existence of any threat to the peace or act of aggression and for the purpose of the peaceful settlement of disputes and situations that may endanger the maintenance of international peace and security;

"To work out measures designed to implement speedily the provisions of Articles 43, 45, 46, and 47 of the UN Charter concerning the assignment of armed forces by states members of the UN to the jurisdiction of the Security Council and concerning the effective functioning of the Military Staff Committee (Pravda, 12 October 1950).

The Soviet proposals, in contrast to the draft resolution of the "seven," were designed not to weaken the UN or to destroy the principle of unanimity of the five permanent members of the Security Council, but to strengthen the UN and to raise the prestige of the Security Council, which bears chief responsibility for the maintenance of universal peace and security of the peoples.

The measures designed to prevent the Security Council from fulfilling its functions also include the establishment at the Fifth Session of the General Assembly of the so-called Collective Measures Committee, the Committee of the Fourteen. This committee, which was set up illegally, was charged with functions belonging exclusively to the Security Council and its Military Staff Committee, namely to collect from states members of the UN information of a military nature, on military resources and armed forces reserves and to work out a plan of collective measures in case of aggression.

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At the Sixth Session of the General Assembly, the Collective Measures Committee submitted to the Political Committee a report that contained recommendations grossly distorting the UN Charter. The committee report proposed, for example, that the General Assembly be given the right to implement a break of diplomatic relations, to carry out economic measures such as establishment of an embargo, full or partial blockade of trade, including exports and imports, total or selective banning of financial operations, interdiction of personal contacts and blocking of funds or property.

The recommendations of the Committee of the Fourteen gave special attention to the establishment under the General Assembly of a so-called executive military authority with extremely wide powers, including the right to command UN armed forces. According to the report, such a military authority might be vested in any state, even one far removed from the area of hostilities.

The Political Committee also received a draft resolution of 11 countries, proposing approval of the measures listed in the report of the Committee of the Fourteen and recommending that states members of the UN maintain within their national armed forces special military units for use by the General Assembly. The draft resolution proposed that the Secretary General designate "as soon as possible" a panel of military experts to issue technical instructions to the states regarding the training and organization of "UN military units."

In the course of the general debate on the report of the collective Measures Committee, the Soviet delegation submitted its own draft resolution. In view of the fact that according to the UN Charter it was the Security Council that bore chief responsibility

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for the maintenance of international peace and security, the Soviet delegation proposed that the Collective Measures Committee be abolished. That proposal, however, was rejected.

Attempts of certain imperialist powers to reduce the rights of the Security Council, to eliminate the Military Staff Committee and to transfer to the General Assembly the rights and functions of the Security Council relating to the determination of conditions requiring the application of international sanctions and to the decision of the question whether such sanctions are to be applied, cannot alter the clear and unequivocal provisions of the UN Charter entrusting chief responsibility for the maintenance of international peace and security exclusively to the Security Council.

The Charter provisions on enforcement measures to be carried out by the Security Council with a view to maintaining or restoring universal peace and security are international legal standards able to insure adherence to the principles and aims embodies in the UN Charter.

2. Other Forms of International Sanctions

International sanctions are not exhausted by the provisions of Chapter VII of the UN Charter. Modern international law also knows other measures of punishing war criminals and of establishing the political and material responsibility of states guilty of starting and waging aggressive war. Of special significance among these measures are such international legal institutions as reparations and occupation of the territory of the aggressor, and the institution of criminal responsibility of actual persons for preparing and waging aggressive war and for war crimes committed in the course of such a war.

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The application by the Security Council of international military sanctions against states committing acts of armed aggression is designed to halt the aggression and restore international peace and security. Only after the end of the war is it possible to punish war criminals, to exact reparations from the aggressor and to carry out other measures designed to prevent the defeated state from ever again threatening its neighbors or the maintenance of peace throughout the world.

The Crimean declaration of the three Allied powers, for example, said in the section on the occupation of Germany and control over it: "We have agreed on a common policy and on plans for the compulsory implementation of the conditions of an unconditional surrender that we will jointly prescribe for Nazi Germany after German military resistance has been finally overcome."

The Soviet Union, the US and Britain jointly undertook to destroy German militarism and Nazism and to create guarantees that Germany would never again be in a condition to break the peace; to disarm and dissolve all German armed forces and to destroy the German General Staff and to remove or destroy all Germany's equipment; to liquidate or place under their control all German industry that might be used for military production; to bring all war criminals to a just and speedy trial and to exact in kind reparations for losses caused by the Germans; to liquidate the Nazi party, Nazi laws, organizations and institutions; to eliminate any Nazi or militarist influence from public institutions and from the cultural and economic life of the German people and to take jointly any other measures in Germany necessary to insure the future peace and security of the world.

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After the unconditional surrender of Hitlerite Germany, the governments of the Soviet Union, the US, Britain and France signed on 5 June 1945 agreements on the control mechanism and the occupation zones of Germany.

The agreements provided that supreme authority in Germany during the period of implementation of the principal terms of the unconditional surrender would be entrusted to the Soviet, American, British and French commanders in their respective zones. The four commanders would constitute the Control Council with the aim of coordinating activities of the commanders in their respective zones and to arrive at joint decisions on the main questions relating to Germany as a whole.

From 17 July to 2 August 1945 the Soviet Union, the US and Britain met in Berlin in a conference at which the three powers reached an agreement designed to implement the Crimean declaration on Germany. "German militarism and Nazism," said the agreement, "will be eradicated, and the Allies, by mutual agreement, now and in the future, will take any other steps necessary to prevent Germany from ever again threatening its neighbors or the maintenance of peace in the world.

"The Allies do not intend to destroy or enslave the German people. The Allies intend to enable the German people to prepare themselves for the future rebuilding of their life on a democratic and peaceful basis" (Pravda, 3 August 1945).

The occupation of the territory of an aggressor state is thus a temporary measure designed to democratize and demilitarize the defeated country. At the same time such an occupation constitutes an important form of political responsibility of the

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state for the aggression it committed, and this is expressed through the temporary limitation of its sovereignty in all or some spheres of activity.

States guilty of starting and waging aggressive war must, in addition to their political responsibility for the commission of the crime, bear also material (property) responsibility for losses inflicted through military operations and the occupation of foreign territory (V. V. Yevgen'yev, Mezhdunarodno-pravovoye regulirovaniye reparatsiy posle vtoroy mirovoy voyny [The International Legal Settlement of Reparations After the Second World War], Gosyurizdat, Moscow, 1951).

The state victim of aggression has the undisputed right for compensation for all damage caused by the acts of the aggressor. This principle is of major political and moral importance. "Aggression and invasion of foreign lands," said V. M. Molotov at the opening of the Paris Peace Conference 31 July 1946, "must not remain unpunished if we really desire to prevent new aggressions and invasions. Failure to punish in such cases and refusal to defend the legitimate rights of states that suffered from aggression cannot be reconciled with the interests of a just and long peace and can only be designed to prepare new aggressions for predatory imperialist purposes" (V. M. Molotov, Voprosy vneshney politiki [Problems of Foreign Policy], Gospolitizdat, 1948, pages 68-69).

Of extraordinary importance for the cause of universal peace and security of the peoples are the standards of international law establishing the responsibility of individual persons for the preparation and waging of aggressive war and war crimes committed in the course of such a war.

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We know that physical persons are not and cannot be the subject of international law. Such subjects are only states, which must bear responsibility for the international crimes they commit. However aggressive wars are waged by concrete persons who stand at the helm of imperialist states and governments.

"Crimes against international law," says the sentence of the Nuremberg tribunal, "are committed by people, not by abstract categories, and only by punishment of the individual persons who committed such crimes can the provisions of international law be observed" (Nyurnbergskiy protsess [The Nuremberg Trial]. Collection of Materials, Vol III, Gosyurizdat, Moscow, 1954, page 992).

Any person in the service of a state that violates the standards of international law prohibiting the use of force or the threat of force or relating to the conduct of war bears personal responsibility for such acts and may be tried either by an international court or by a civil or military court of an individual state.

In the course of World War II, leaders of the Soviet Government repeatedly warned the Hitlerite invaders that they were responsible for having started their aggressive war against the USSR and the other democratic states of the world.

V. M. Molotov, in his radio speech 22 June 1941, said that "the responsibility for the criminal attack on the Soviet Union falls completely and in its entirety on the German Fascist rulers."

In his speech on 6 November 1942 on the 25th anniversary of the great October Socialist Revolution, I. V. Stalin warned that those guilty of aggressive war "will not escape responsibility for their crimes and will not escape from the punishing arms of tortured peoples."

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Individual responsibility of persons for starting and waging aggressive war and for war crimes committed in the course of such a war is also provided in other international legal documents, such as the Soviet-Polish declaration of 4 December 1941 and the Declaration on Punishment for Crimes Committed During the War, which was signed 13 January 1942 by the governments of Czechoslovakia, Poland, Yugoslavia, Norway, Greece, Belgium, the Netherlands, Luxembourg and the French National Committee.

The joint declaration of the US, Britain and the Soviet Union of 30 October 1943 (the Moscow Declaration) on the responsibility of the Hitlerites for their brutalities stated that German officers and soldiers and Nazi party members who were responsible for brutalities, murders and executions or who voluntarily took part in them "would be sent to the countries in which they committed these abominable acts for trial and sentencing in accordance with the laws of these liberated countries and the free governments that will be created there" (Vneshnyaya politika Sovetskogo Soyuza v period Otechestvennoy voyny [The Foreign Policy of the Soviet Union During the Patriotic War], Vol I, Gospolitizdat, 1946, page 418).

The declaration stressed that the chief war criminals, whose crimes were not associated with a definite geographical place, would be tried by joint decision of the Allied governments.

The Statute of the International Military Tribunal, which was drafted in 1945 by representatives of the Soviet Union, the US, Britain and France, was guided by the Moscow Declaration in establishing criminal responsibility for the chief war criminals of the European Axis powers who, acting individually or as members of organizations, committed crimes against the peace, war crimes and crimes against mankind.

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Article 6 of the statute provided grounds for putting on trial any leaders, organizers, instigators and accomplices who took part in the formulation or implementation of a general plan or plot designed to commit any of the enumerated crimes.

Similar provisions are contained in the Statute of the Tokyo International Tribunal.

The UN General Assembly in its resolution of 11 December 1946 confirmed the "principles of international law recognized in the statute of the Nuremberg tribunal and expressed in the sentence of the tribunal."

In other words, criminal prosecution and punishment of persons guilty of having prepared and waged aggressive war, as well as of persons who committed war crimes in the course of such a war, may be carried out either before or after the end of the war. International law provides a procedure for the trial of war criminals before international or national courts.

The international law standards providing for criminal prosecution and punishment of persons guilty of having started and waged aggressive war are just as important for the cause of international peace and security as the enforcement measures carried out by the UN Security Council against aggressor states.

In this connection we must not overlook attempts by certain bourgeois jurists and political leaders to justify the immunity of individual persons for international crimes, including the starting and waging of aggressive war, on the ground that the subjects of international law are states rather than individual persons.

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They argue that states, rather than individual persons, undertake international obligations, and therefore states, rather than individuals, must bear responsibility for breaches of standards of international law.

Such a concept was advanced at the Nuremberg trials by defense counsel Jahrreiss "If the Reich in a specific case started its aggression in contravention of an existing nonaggression pact," he said, "then it committed an international crime and must answer for it on the basis of standards of international law.. Only the Reich and not an individual person.. (Nyurnbergskiy protsess... Vol II, page 461).

Supporters of this view intentionally confuse two different concepts -- the concept of the subject of international law and the concept of the subject of an international crime.

Only states can be the subject of international law; this means that only states can take part in international legal relations, such as signing international agreements, acquiring rights and assuming international obligations.

However the subjects of international crimes can be both states and individual persons guilty of the criminal breach of generally accepted standards of international law, of international treaties, agreements, pacts and conventions, such as the UN Charter, nonaggression treaties, conventions prohibiting aggression and so forth; in such cases states violating these international agreements bear political, moral and material responsibility, while the actual persons bear criminal responsibility.

The criminal responsibility of individual persons for the preparation and waging of aggressive war depends on the position

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they held in the state and their influence on the policy of the aggressor state. As far as concerns persons committing war crimes in the course of such a war, they are subject to trial and punishment irrespective of the position they held in the state, and include members of armed services acting on the basis of orders of their superior.

3. The Right of States to Individual or Collective Self-Defense

By self-defense we mean acts of a military nature undertaken by a state or group of states with a view to defense against armed attack.

The right of states to self-defense must be examined from two points of view: from the point of view of the right of any state to undertake measures of a military nature to strengthen its defensive capacity and from the point of view of the right of states to undertake military measures against other states for the purpose of self-defense.

A state has the right to take necessary measures to protect its frontiers and to defend itself against an aggressor and to enter into treaty relationships with other states, but no state has the right to undertake military operations against other states except in cases provided for in Article 51 and 106 of the UN Charter.

The provisions of Article 106 were discussed in the section on international military sanctions; we will therefore turn to Article 51, which bears directly on the right to self-defense.

Article 51 of the UN Charter says: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the

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United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

In other words, according to the UN Charter, the right of individual or collective self-defense is an inalienable, i.e., sovereign, right of states members of the UN, through the use of which states may offer armed resistance to an agressor until the Security Council can take the necessary measures to maintain international peace and security. The right of individual or collective self-defense arises only in the case where "an armed attack occurs against a member of the United Nations," when an armed attack actually takes place. Such are the basic and decisive provisions of Article 51 of the UN Charter.

In all other cases of aggression (indirect, economic and ideological) state do not have the right of self-defense. In the case of such aggressive activities, a state member of the UN may have recourse to nonmilitary measures, such as sending a protest note, prohibiting the dissemination of publications of the aggressor state within its territory, using retortion and similar measures, breaking diplomatic and consular relations and so forth.

The right to use enforcement measures against states guilty of acts of indirect, economic and ideological aggression belongs exclusively to the UN Security Council and to states acting under its instructions.

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Article 51 of the Charter says that the Charter in no way impairs the inalienable right of individual or collective self-defense until the Security Council has taken measures necessary to maintain international peace and security. Does this mean that from the moment when the Security Council does adopt appropriate measures against the aggressor the states lose their right of individual or collective self-defense? No, such a conclusion would not be in accordance with the spirit of Article 51 of the Charter.

The article does not say that states are deprived of the right of self-defense from the moment when the Security Council adopts the measures necessary to maintain international peace and security. It says that from that moment the problem of self-defense may no longer be important in practice.

In case of an armed attack on a member of the UN, there enter into action the national armed forces of the state that is under attack, as well as the armed forces of states with which the given state has appropriate agreements on mutual defense against aggression. The armed forces of other states members of the UN, including the armed forces under the jurisdiction of the Security Council, do not enter into action from the time the aggression starts and the Security Council adopts a decision on the application of military sanctions until the decision is actually implemented. As soon as the Security Council applies effective military sanctions, the individual and collective military efforts of the states are merged with the joint efforts of the UN, and the right of individual or collective self-defense in its original sense cedes its place to the collective defense of the UN.

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Self-defense, at first the only means of defense against aggression, thus becomes an inalienable part of the combined efforts of the UN in the fight against aggression, and in this sense self-defense in effect comes under the control of the Security Council, which is the UN organ bearing chief responsibility for the maintenance of international peace and security. It is only in this sense that we must interpret the provision of Article 51 of the Charter to the effect that the Charter in no way impairs the inherent right of self-defense until the Security Council has taken measures necessary to maintain international peace and security.

The right of individual or collective self-defense, in the spirit of Article 51 of the Charter, does not at all mean that acts of states subject to armed attack must be exclusively of a defensive character. If for defense purposes these states undertake offensive operations such operations must not and cannot be regarded as violations of the UN Charter. Nor does self-defense mean barely essential defense, in which the use of defensive means is kept in proportion to the seriousness of the attack.

It is assumed that from the time of the armed attack on the member of the UN until the Security Council adopts the necessary measures to maintain international peace and security a minimum period of time will elapse; however, under modern military conditions it does not take much time to inflict tremendous damage to a state.

If therefore the peace-loving nations do not wish to be caught unawares by an aggressor, they must dispose of sufficient forces and other means not only to halt the aggression before the Security Council is able to take appropriate measures, but to repulse the invaders far from their borders.

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While supporting the idea of collective security and strengthening the UN with a view to transforming it into a real peace organization able to take speedy and effective action, the peace-loving nations must at the same time always be prepared to defend their countries against attack.

From this it does not follow, of course, that every member of the UN, immediately after having signed the Charter, must proceed to a wide arming of its country or that states must maintain millions of troops in constant readiness, build new military bases and so forth. Such acts would be in contravention to the aims and principles of the UN. On the contrary, UN members, and especially the big powers, must carry out a reduction of armaments and armed forces and keep only as many troops as may be necessary for purposes of self-defense.

The capacity of states to carry out effective self-defense must not be achieved by an extreme degree of self-arming, but by a combination of forces for joint action against aggression and by organization of a system of collective security aimed at maintaining universal peace and international security.

During World War II and afterwards the great powers -- the US, Britain, France and the Soviet Union -- mutually pledged to destroy German militarism and Nazism and to create guarantees that Germany would never again be in a position to break the peace in the world; the Allies pledged to disarm and to dissolve all German armed forces, to destroy the German General Staff once and for all, to eliminate any Nazi or militarist influence from public institutions and from the cultural and economic life of the German people and to take any other measures regarding Germany that may prove necessary for the future peace and security of the world.

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These pledges were embodied in the Soviet-British treaty of 26 May 1942 on cooperation and mutual assistance after the war, in the Soviet-French treaty of alliance and mutual assistance of 10 December 1944, and in agreements concluded by the Soviet Union, the US and Britain at the Berlin conference of 17 July to 2 August 1945.

Article 3 of the Soviet-British Treaty says that after the end of military operations the Soviet Union and Britain will take "all measures in their power to render impossible a repetition of aggression and breach of the peace by Germany or any other state allied with it in acts of aggression in Europe."

Article 4 of the treaty says: If one of the High Contracting Parties is once again embroiled in the post-war period in military operations against Germany or any other state mentioned in Article 3 (Point 2) as a result of an attack by that state on the given Party, then the other High Contracting Party will at once render to the Contracting Party so embroiled in military operations all military and other aid and assistance within its power" (Vneshnyaya politika..., op. cit., Vol I, 1946, pages 271-272).

In view of the extreme danger for the peoples of France and the Soviet Union of any acts designed to revive German militarism, the Soviet Union and France undertook upon termination of the war with Germany "to take jointly all necessary measures to eliminate any new threat originating from Germany and to oppose any acts that would make possible any new attempt of aggression on its part" (Article 3 of the treaty).

Article 4 of the Soviet-French treaty provides for mutual assistance between France and the Soviet Union in case of

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repetition of aggression on the part of Germany. The article says: "In case one of the High Contracting Parties is embroiled in military operations against Germany, whether as a result of aggression by the latter or as a result of the effect of Article 3, the other Party will immediately render to it all aid and support within its power" (Vneshnyaya politika .., op. cit., Vol II, 1946, page 329).

The agreement signed in Berlin by the US, Britain and the Soviet Union says: "German militarism and Nazism will be eradicated, and the Allies, by mutual agreement, now and in the future, will take any other steps necessary to prevent Germany from ever again threatening its neighbors or the maintenance of peace in the world" (Vneshnyaya politika.., Vol III, 1947, page 339).

The measures of collective self-defense provided for in the joint pledges of the US, Britain, France and the Soviet Union thus had one single aim: to insure the security of Europe and not to permit a repetition of armed aggression on the part of Germany or its potential allies.

These pledges are in full accord with the principles and aims of the UN and with its chief task, which is to insure international peace and security.

The relationships formed during the war among the big powers could develop further, take on more perfected forms and give rise to new international treaties and agreements, but they must not depart from their basic ideas, the ideas of peace, the maintenance of universal security and the strengthening of cooperation and mutual understanding of all states without exception.

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After the end of World War II the ruling circles of the US began to create air and naval bases in areas situated thousands of kilometers from the US.

It is quite obvious that these acts have nothing to do with the self-defense of the US or with the legitimate defense interests of the US. The same can be said of the so-called collective measures provided for in the North Atlantic Treaty.

The North Atlantic Treaty completely ignores the possibility of repetition of German aggression and consequently is not designed to prevent a new German aggression. The members of that treaty include such big powers as the US, Britain and France. Consequently the North Atlantic Treaty cannot be directed against the US, or against Britain, or against France. The only big power of the anti-Hitlerite coalition that is not a member of that treaty is the Soviet Union; therefore the North Atlantic Treaty must be regarded as a treaty directed against the one major ally of the US, Britain and France in World War II, against the USSR ("Memorandum of the Government of the USSR on the North Atlantic Treaty," Izvestiya, 1 April 1949; Zayavleniya Ministerstva inostrannykh del SSSR o Severo-atlanticheskom pakte [Statements of the Ministry of Foreign Affairs of the USSR on the North Atlantic Treaty], Gospolitizdat, 1949).

The Paris agreements concluded by the US, Britain, France, West Germany, Italy, Belgium, the Netherlands, Luxembourg and Canada provide for the remilitarization of West Germany and its incorporation in the so-called Western European Union.

Contrary to the Soviet-British treaty of cooperation and mutual assistance after the war, the Soviet French treaty of

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alliance and mutual assistance, and the Crimean and Berlin agreements providing for joint measures by the US, Britain, France and the Soviet Union to prevent new aggression on the part of Germany, the Paris agreements have as their aim the remilitarization of Germany and the revival of German militarism and Nazism.

The Paris agreements are in glaring contradiction to the Soviet-British and Soviet-French treaties providing for joint measures to prevent the possibility of a new aggression on the part of German militarism and thus to prevent a new war in Europe. In addition to the above-mentioned Article 3 of the Soviet-French treaty of alliance and mutual assistance, which embodies the clear and unequivocal pledges of France and the USSR not to permit a revival of German militarism, we must also recall the text of Article 5 of the treaty, which says: The High Contracting Parties pledge themselves not to enter into any alliance and not to take part in any coalition directed against one of the High Contracting Parties." The Paris agreements void the French-Soviet treaty of alliance and mutual assistance since they re-establish militarism in West Germany and draw it into a military grouping directed against the Soviet Union and the other peace-loving states of Europe. "All this shows," says the note of the Soviet Government to the French Government of 16 December 1954, "that ratification of the Paris agreements will unavoidably complicate the entire situation in Europe, that such ratification does not accord with the interests of peace and security in Europe, and that it will please only the aggressive circles of certain states engaged in preparing a new war.

"Under these conditions the Soviet Government considers it its duty to state that the act of ratification of the Paris agreements cancels out the French-Soviet Treaty of Alliance and Mutual

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Assistance and annuls that treaty. All responsibility for this will lie with France and with the French Government" (Pravda, 17 December 1954. In spite of the warning of the Soviet Government, Britain and France ratified the Paris agreements, whereupon the Soviet Government informed the two countries of the abrogation of the French-Soviet and British-Soviet treaties.)

The position of the ruling circles of the US, Britain and France and other capitalist countries on the question of creating a single system of collective security in Europe, the ratification of the military Paris agreements, the incorporation of West Germany in the North Atlantic bloc and the Western European Union have created the threat of another aggressive war in Europe.

In view of this situation in Europe, the Soviet Union and other peace-loving states against which the Paris agreements are directed have been forced to take counter-measures by joint action to insure their security.

On 14 May 1955 the Soviet Union, the Polish People's Republic, the Czechoslovak Rapublic, the German Democratic Republic, the Hungarian People's Republic, the Rumanian People's Republic, the Bulgarian People's Republic and the Albanian People's Republic signed the Treaty of Friendship, Cooperation and Mutual Assistance in Warsaw. The treaty among the eight countries defined their obligations concerning mutual defense in case of an armed attack on any of its members.

"In case of an armed attack in Europe on one or several states members of the treaty by any state or group of states," says Article 4 of the Treaty, "every state member of the treaty in the exercise of rights of individual of collective self-defense

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under Article 51 of the UN Charter will render to the state or states under such attack immediate assistance, either individually or by agreement with other states members of the treaty, by all means it considers necessary, including the use of armed force."

The eight states created a joint command of armed forces that will be placed by mutual agreement among the treaty members under the jurisdiction of the command acting on the basis of jointly established principles. The treaty members undertook to take any other agreed measures necessary to strengthen their defensive capacity to guarantee the inviolability of their frontiers and territories and to insure their defense against possible aggression (Article 5 of the treaty).

The treaty of friendship, cooperation and mutual assistance is based on principles of respect for state sovereignty and noninterference in internal affairs. It guarantees the mutual defense of the sovereignty of all its members. The treaty may be joined by any other state, without exception, irrespective of its social and state systems. This is evidence of the defensive character of the treaty, and evidence of the fact that the most important concern of the Soviet Union and the people's democracies is to create an all-European system of collective security.

"The present treaty," says Article 9 of the treaty," is open to other states, irrespective of their social and state systems, that express their readiness, through membership in the present treaty, to promote the combination of efforts of peace-loving states with a view to insuring peace and the security of peoples."

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At the same time the conclusion of the Warsaw Treaty does not mean at all that its members will shun further efforts to create an all-European system of collective security. Article 11 says that in case of creation of an all-European system of collective security the Treaty of the eight countries will become void (Pravda, 15 May 1955).

Of major importance in this connection is the Soviet proposal at the Geneva conference of the heads of government of the four powers in July 1955 that a system of collective security be created in Europe with participation of all European states and the United States.

In order to facilitate the conclusion of such an agreement, the Soviet delegation proposed that the creation of a collective security system in Europe be divided into two periods.

In the first period states would retain obligations under existing treaties and agreements, but would be bound to refrain from the use of armed force and to settle all disputes that might arise among them by peaceful means.

In this connection N. A. Bulganin offered concrete proposals at the Geneva conference, containing the basic principles of a treaty between the existing state groupings in Europe.

"Guided by a desire to strengthen the peace," said the Soviet proposal, "and recognizing the need for promoting a relaxation of international tension and the establishment of trust in relations among states

"the governments of the Soviet Union, the US, France and Britain agree that the interests of maintaining peace in Europe

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would be served by the conclusion of a treaty between the states members of the North Atlantic pact and the Western European Union, on the one hand, and the states members of the Warsaw Treaty, on the other. Such a treaty could be based on the following principles:

"1. The states members of the North Atlantic Treaty and the Paris agreements, on the one hand, and the states members of the Warsaw Treaty, on the other, undertake not to use armed force against one another. This pledge should not impair the right of states to individual or collective self-defense under Article 51 of the UN Charter in case of an armed attack.

"2. The states members of the treaty undertake mutually to consult one another in case of disagreements and disputes that might threaten the maintenance of peace in Europe.

"3. The treaty is of a temporary character and will be in effect until replaced by another treaty regarding the creation of a system of collective security in Europe." (Pravda, 22 July 1955).

In the second period states would assume obligations under an appropriate treaty, in connection with the creation of a collective security system in Europe, as a result of which the North Atlantic Treaty, the Paris agreements and the Warsaw Treaty would simultaneously and completely become void.

The purpose of the first period is to relax international tension between the state groupings that have been formed in Europe. This can be achieved if the states members of these groupings, while retaining their obligations under existing treaties and agreements, agree to refrain from the use of armed force against one another and to settle all disputes by peaceful means.

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This would be a first step along the road of creating collective security in Europe.

The purpose of the second period is to liquidate existing state groupings and to replace them by an all-European system of security and create an atmosphere of friendship and mutual understanding among all states of the world.

The Soviet proposals were formulated in the draft of an All-European collective security treaty submitted on 20 July 1955 to the Geneva conference.

The draft links the question of organizing a system of collective security with the German question.

The Soviet Union has always favored and still favors German reunification. The Soviet Government has repeatedly stated that entry in force of the Paris agreements would create unfavorable conditions for talks on the German question. Since the war two states with different economic and social systems have been formed in Germany -- the German Democratic Republic and the German Federal Republic. As we know, the German Federal Republic has adopted a course of remilitarization and has joined the military groupings of the Western powers, while the German Democratic Republic, in view of the Paris agreements, decided to take part in the organization of the Warsaw Treaty. Under these conditions, there can be no question of any mechanical merger of the two parts of Germany.

The only real way to reunify Germany is through the combined efforts of the four powers, and of the German people, to relax tension in Europe and establish confidence among states. That aim would be best served by the creation of a system of collective

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security in Europe, in which both parts of Germany would take part on an equal basis. Such an approach to the solution of the German problem would create obstacles to the revival of German militarism and eliminate obstacles in the way of German reunification, which in turn would strengthen peace in Europe and throughout the world.

In submitting the draft of the All-European treaty on collective security in Europe, the Soviet Government felt that "at first the German Democratic Republic and the German Federal Republic, and then a reunified Germany, should enter into the system of all-European collective security and should become members of a European security treaty, which would insure peace and not a revival of militarism with all its horrors of war and its dark days for people" (Pravda, 25 July 1955).

Article 2 of the draft treaty pledged the contracting parties to refrain from any attack on one another and to refrain in their international relations from the threat of force and, in accordance with the UN Charter, to settle all disputes that might arise among them by peaceful means so as not to threaten international peace and security in Europe.

Article 4 of the draft treaty provides for mutual assistance among all treaty members in the struggle against aggression by establishing that an armed attack in Europe on one or several member states by one or more states will be regarded as an attack on all members of the treaty. In case of such an attack in accordance with the above-mentioned article, each treaty member in exercise of its right of individual or collective self-defense will render aid to the state or states under attack by all means at its disposal, including the use of force, with a view to restoring and maintaining international peace and security in Europe.

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The creation of a collective security system would lead to the liquidation of military state groupings of Europe, such as the North Atlantic Treaty, the Paris agreements and the Warsaw Treaty. According to the treaty draft, members would undertake not to take part in any coalitions or alliances and not to conclude any agreements whose aims contradict the aims of the European collective security treaty.

Of major importance for the cause of universal peace and security is Article 13 of the draft treaty, under which, pending the achievement of an accord on reduction of armaments and prohibition of atomic weapons and on the removal of foreign troops from the territories of European states, the treaty members undertake not to take any further steps to increase their armed forces stationed on the territory of other European states by virtue of previous treaty commitments.

The draft treaty is a document of tremendous historical importance. The conclusion of such a treaty would provide a firm basis for assuring the security of all states and for strengthening peace in Europe and throughout the world.

The foregoing discussion of the question of international sanctions and self-defense measures in cases of aggression shows that the Soviet definition of aggression is in full accord with the articles of the UN Charter providing for international sanctions against states guilty of threats to the peace, breaches of the peace and acts of aggression.

The concept of armed aggression given in the Soviet definition is in complete agreement with Paragraph 1 of Article 1 and Paragraph 4 of Article 2 of the UN Charter, as well as with

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Articles 39, 41, 42, and 51. The UN Charter provides for international sanctions not only against states that commit armed aggression but against states guilty of threats to the peace. Three forms of aggression -- indirect, economic and ideological -- are, in degree of danger to the cause of universal peace and security, analogous to the concept of threat to the peace. In case of an armed attack by one state on the territory of another, i.e., in case of an act of direct armed aggression, the aggressor may be subjected to measures of self-defense and to the most effective international sanctions, including military. In that case, too, appropriate agreements among states on mutual assistance against aggression would go into effect.

In case of other forms of aggression constituting threats to the peace, it is sufficient to apply less severe measures against the aggressor, not involving the use of armed force. Cases of indirect, economic and ideological aggression may be eliminated by the Security Council's application of international sanctions analogous to sanctions provided for eliminating threats to the peace.

An unchanging principle of Soviet foreign policy is the Leninist principle of long-term peaceful coexistence of states and peoples of the world having different social-economic systems.

From the very first days of its existence the Soviet Union has built its relations with other states on the basis of respect for sovereignty, independence and equality of all states and peoples of the world, is applying all its efforts to rid mankind of the horrors and evils of war and is constantly fighting for peace and tranquility of peoples.

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The Soviet draft definition of the concept of aggression and aggressor, which was submitted to the UN in August 1953, is of great importance for the cause of universal peace and international security. The adoption of that definition would have a great effect on the relaxation of international tension and facilitate the task of the Security Council, which is the organ bearing chief responsibility for insuring peace throughout the world.

The discussion of draft definition of aggression submitted by the Soviet Union and other states to the UN is still continuing.

The General Assembly resolution of 4 December 1954 says that the "debate at the Ninth Session of the General Assembly on the question of defining the concept of aggression demonstrated the need for reconciling various views expressed by member delegates." The General Assembly therefore set up the Special Committee of 19 members, charging it with the task of submitting to the Eleventh Session of the General Assembly a detailed report, as well as a draft definition of aggression taking account of expressed comments as well as of the draft resolutions and any amendments (Doc. A (Resolution) 243, 7 December 1954).

The importance of an international legal definition of the concept of aggression was stressed at the 44th Conference of the Interparliamentary Union (25 to 31 August 1955) in which a delegation of the Supreme Soviet USSR participated.

Point 3 of the conference resolution on the juridical and moral principles of coexistence stated that the conference "desires that the UN continue its efforts aimed at arriving at as precise as possible a definition of the concept of aggression" (Mezhdunarodnaya zhizn' [International Life], 1955, No 9, page 156).

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The fight of the Soviet Union for having the UN establish guiding principles for defining the party that is guilty of aggression is part of the over-all effort of the Soviet Union to insure peace and universal security.

The Soviet Union leads the fight for peace in the UN and has offered a number of proposals designed to strengthen the peace and establish international cooperation based on respect for the sovereignty of large and small states.

The Soviet Union wishes to live in peace and friendship with all peoples. The foreign policy of the Soviet state serves the vital interests of the Soviet people and the interests of strengthening peace and security throughout the world.

The resolution adopted at the third session of the Supreme Soviet USSR in August 1955, following a report by N. A. Bulganin, chairman of the Council of Ministers USSR, on the results of the Geneva conference of the heads of government of the four powers, says: "..The Soviet Union has conducted and will continue to conduct a policy of peace, international cooperation and relaxation of international tension and will seek to establish confidence among states in the interests of a peaceful solution of major international problems through negotiations" (<u>Pravda</u>, 6 August 1955).

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