

also enable the aggressor to take shelter behind the definition in order to deny that he had any aggressive intent.

The representatives of Italy and the United Kingdom, among others, argued that aggressive intent was one of the most important elements in determining whether or not aggression had occurred; if intent were not recognized as an element of aggression, a limited, erroneous or unauthorized attack could unjustly be labelled as aggression. It was also said that the element of intent was not necessarily subjective: it was generally inferred, especially in criminal law, from the objective circumstances of the offence.

According to some representatives, including those of Australia and Uruguay, any definition of aggression should acknowledge that the use of force in the exercise of a State's inherent right to individual or collective self-defence did not constitute aggression. Other Members, for instance El Salvador and Uganda, felt that efforts should be made to establish the limits of the right of self-defence vested in States by virtue of Article 51 of the Charter, in order to prevent any possible ambiguity between any kind of military action and aggression in the proper sense of the word. It was said that not all breaches of the peace would give a State the right to self-defence.

Some Members, including Finland, Greece and Iran, favoured including the principle of proportionality in the definition. It was observed in that connexion that an unconditional right of self-defence could not be protective, particularly in the case of small States, since it seemed to provide the only guarantee that a defensive action would not turn into aggression. The representatives of Canada, Ghana and others said that the question of proportionality should play little part in the definition. It was pointed out that Article 51 of the Charter did not mention the principle of proportionality and placed no limitations on the means that the victim of armed aggression could use to repel the aggressor.

Some Members, Cuba and Iraq, for instance, stressed that the use of armed force by regional arrangements or agencies would be legitimate only if there had been a prior decision to that effect by the Security Council under Article 53 of the Charter.⁵ The view was expressed, by

Bulgaria among others, that the Security Council alone could decide to resort to enforcement measures involving the use of force.

Many Members including Guinea, Pakistan and Zambia, were in favour of including in the definition of aggression a provision that would make an exception for the use of force when it was necessary to ensure the exercise of the right of peoples to self-determination. Such a provision, it was said, was of great importance to countries that were prepared to support national liberation movements. Colonialism, they argued, qualified as aggression, and the use of force by dependent peoples for self-determination—for instance the organizing of armed bands and the instigation of civil strife—should be regarded as legitimate means.

Australia, Portugal and the United Kingdom were among those observing that the use of force by colonial peoples was not envisaged in the Charter system and should be excluded from the definition. In that connexion, it was noted that the question of self-determination and administration of dependent territories had been carefully regulated by the Charter, which had instituted an effective system that did not envisage the use of armed force by dependent peoples; moreover, recognition of the legitimacy of the use of force in order to give aid to dependent and oppressed peoples might provide a pretext for manifest acts of aggression.

Colombia and the Ukrainian SSR, among others, considered that the definition should contain provisions concerning the legal consequences of aggression; it should state clearly that the unlawful use of force entailed responsibility and conferred no rights. It was observed in this connexion that the principle of the non-recognition of territorial gains obtained by force had already been recognized in several international instruments and that the principle of the responsibility of the aggressor had also been embodied in international practice, for instance at the Nuremberg and Tokyo tribunals.

Other Members, such as Italy and the United Kingdom, felt that to include the legal consequences of aggression in the definition would impair the clarity of the text and the effective-

⁵ For text of Article 53, see APPENDIX II.