

definition of aggression and the powers of the Security Council.

In the opinion of the Belgian representative, a definition of aggression would be useful only if it respected the powers and duties of the Council; the exercise of those powers, which were political in nature, was a matter for the discretion of the Council, and it was therefore debatable whether it was possible to bind the Council by a definition. The representative of Greece held that the powers of the Security Council were not discretionary, because under Article 24 of the United Nations Charter the Council had only primary, and not exclusive, responsibility for the maintenance of peace. Iraq said that the Security Council should confine itself to verifying that acts of aggression had been committed, basing its action on the notion of aggression as deducible from international law; if the definition constituted a correct interpretation of the Charter, the Security Council would be under an obligation to apply it.

A number of representatives commented on the type of act that should be included in the definition. The representative of France said the definition of aggression could not be exhaustive and should contain a minimum list of the most serious cases of aggression, corresponding to Articles 39 and 51 of the Charter. Such a list could include the sending of armed bands by one State into the territory of another State, as well as some acts of indirect aggression which would be considered as such under Article 39 of the Charter but which would not confer the right of self-defence under Article 51.

The representative of the United Kingdom stated there was no basis in the Charter for limiting the interpretation of the term aggression to the direct, as distinct from indirect, use of force; moreover, in the modern world the indirect use of force was tending to take the place of direct aggression. Any definition of aggression should include both forms, since they were comparable in purpose and effect.

The representative of the United States also held that the Charter did not distinguish between different types of aggression; there was no provision enabling a State to escape from the Charter's condemnation of illegal acts of force by a judicious selection of means to an illegal end.

The representatives of Afghanistan, Cuba, India and Zambia, among others, expressed the opinion that the definition should not be limited to armed aggression but should take into account other forms—economic, political and cultural—which were equally dangerous.

Greece was one of several Members which

considered that the principle of priority—a fundamental criterion to be found in all systems of municipal law—was of paramount importance in any definition of aggression. The Philippine representative declared that the principle was the only objective criterion in identifying an aggressor, since it would prevent States from committing acts of aggression in the guise of preventive wars. Czechoslovakia observed that priority was only a presumption, since the State presumed to be the aggressor must be allowed the right to adduce proof to the contrary—for example, by showing that its act constituted self-defence.

Belgium expressed strong reservations about the possibility of a quasi-automatic application of the principle of priority in view of the complexity of actual situations. The United States believed that the remaining difficulties on the questions of priority and aggressive intent could be resolved on the basis of the progress achieved at the 1971 session of the Special Committee.

Ecuador and France, among others, were opposed to including aggressive intent in the definition. In Ecuador's view, the notion had no place in a definition, since it was a subjective element; an act of aggression came into existence as soon as it was committed, and the motives for it were totally irrelevant. France said further that the principle of priority was irreconcilable with the criterion of intent and that the two criteria should not be included in the definition on the same footing.

Other representatives held that the element of intent should be a fundamental ingredient of any definition of aggression. In this connexion, the United Kingdom said it was incorrect to equate the element of intent with subjectivity. The existence of intent must be inferred on the basis of objective analysis from the surrounding circumstances, as was normally the case in municipal law. The stated intention, although a factor to be taken into account, was not determinative and should be discounted when inconsistent with the weight of the evidence. There was therefore no ground for saying that the inclusion of the element of aggressive intent in a definition would enable a State to escape condemnation.

The question of the legitimate use of force was also raised by a number of Members. Regarding the right of self-defence, Romania stated that to define aggression was in effect also to define the right of self-defence of every State, as embodied in Article 51 of the Charter; the definition should be made an effective means of sanctioning the right of self-defence against the unlawful use of force. Egypt said that to dissociate the exercise of