

and the United Nations, more precisely of harmonizing the jurisdiction and functions of the court with those of the Security Council and the General Assembly under the United Nations Charter. For instance, some member states might well hold the view that the court should not be empowered to try any individual for the crime of aggression in any case where the Security Council or the Assembly had decided that no aggression had been committed by the state to which the accused individual belonged or where the Security Council or the General Assembly was still seized of the matter.

It therefore seems to my delegation that here is one important point, amongst others, which requires postponement of further consideration of the international criminal jurisdiction project until a decision has been reached on the definition of aggression.

The second reason which my delegation thinks strongly militates in favour of such postponement is that we have just agreed to recommend to the General Assembly postponement of further consideration of the draft code of offences against the peace and security of mankind. Such code, if it is ever agreed upon, will no doubt constitute the main body of law to be applied by the suggested international criminal court. It is quite conceivable that if the statute of the proposed court is discussed after an agreement has been reached on the draft code, the majority of the member states may wish, at the outset at least, to restrict the jurisdiction of the court to the interpretation and application of that code, or of that code and of one or more conventions (such as the Genocide Convention).

A third reason is that the question of penalties has been left open and is not likely to be decided separately from the code. It is indeed a matter the regulation of which can hardly be severed from that of the responsibility of individuals and from that of the nature and seriousness of the crimes.

In conclusion we believe that the time has not come when the project of the establishment of an international criminal court can usefully be proceeded with. The valuable work of the International Law Commission and of the two special committees set up by the General Assembly to study the question will not have been performed in vain. These studies have focused attention on the problem and they will be most useful in its future consideration. For the moment, and for the reasons outlined above, my delegation is prepared to vote in favour of a proposal which would call for the postponement of this project until decisions have been reached on the definition of aggression and the draft code of offences.