



Preparatory Commission for the International Criminal Court

8 July 2002

Original: English

Working Group on the Crime of Aggression

New York

1-12 July 2002

Incorporating the crime of aggression as a leadership crime into the definition

Proposal submitted by Belgium, Cambodia, Sierra Leone and Thailand

Rationale

1. Since it is already given and supported by the jurisprudence of the Nuremberg Tribunal and the Tribunals established pursuant to Control Council Law No. 10 that the crime of aggression is a leadership crime which may only be committed by persons who have effective control of the State and military apparatus on a policy level, it is crucial to reflect this principle in the definition of the Crime of Aggression; otherwise it might be subsequently diluted, among other things, by the application of article 10 of the Rome Statute.

Proposal

2. To achieve the above, insert into the definition of the Crime of Aggression the word “**effectively**” before the words “exercise control”, as follows:

“For the purpose of this Statute, a crime of aggression means an act committed by a person who, being in a position to **effectively** exercise control over or direct the political or military action of a State, intentionally and knowingly orders or participates actively in the planning, preparation, initiation or waging of an act of aggression.”