

GENERAL  
ASSEMBLY

THIRTY-FOURTH SESSION

Official Records\*



SIXTH COMMITTEE

53rd meeting

held on

Tuesday, 27 November 1979

at 10.30 a.m.

New York

SUMMARY RECORD OF THE 53rd MEETING

Chairman: Mr. GUNA-KASEM (Thailand)

CONTENTS

AGENDA ITEM 118: RESOLUTIONS ADOPTED BY THE UNITED NATIONS CONFERENCE ON THE REPRESENTATION OF STATES IN THEIR RELATIONS WITH INTERNATIONAL ORGANIZATIONS (continued)

- (a) RESOLUTION RELATING TO THE OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued)
- (b) RESOLUTION RELATING TO THE APPLICATION OF THE CONVENTION IN FUTURE ACTIVITIES OF INTERNATIONAL ORGANIZATIONS (continued)

AGENDA ITEM 113: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES: REPORT OF THE AD HOC COMMITTEE ON THE DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES (continued)

AGENDA ITEM 117: REGISTRATION AND PUBLICATION OF TREATIES AND INTERNATIONAL AGREEMENTS PURSUANT TO ARTICLE 102 OF THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SECRETARY-GENERAL (continued)

\* This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room A-3550, 866 United Nations Plaza (Alcoa Building), and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL

A/C.6/34/SR.53

29 November 1979

ORIGINAL: ENGLISH

The meeting was called to order at 10.45 a.m.

AGENDA ITEM 118: RESOLUTIONS ADOPTED BY THE UNITED NATIONS CONFERENCE ON THE REPRESENTATION OF STATES IN THEIR RELATIONS WITH INTERNATIONAL ORGANIZATIONS  
(continued) (A/10141)

- (a) RESOLUTION RELATING TO THE OBSERVER STATUS OF NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY AND/OR BY THE LEAGUE OF ARAB STATES (continued)
- (b) RESOLUTION RELATING TO THE APPLICATION OF THE CONVENTION IN FUTURE ACTIVITIES OF INTERNATIONAL ORGANIZATIONS (continued)

1. Mr. MARDAN (Iraq) said that the opposition of one of the most influential States had been one of the factors which had prevented consideration of the status of the national liberation movements at the United Nations Conference in Vienna. His delegation expressed concern at the postponement of consideration of that question ever since its inclusion in the agenda of the General Assembly in 1975. The participation of the national liberation movements with observer status in the work of the United Nations, its specialized agencies and conferences held under the auspices of the United Nations would consolidate peace and security. The national liberation movements should be granted at least the same privileges and immunities as those normally given to countries which enjoyed observer status, so that they might make known their national aspirations and be able to participate in an effective manner. He reaffirmed the need to give that topic priority consideration during the next session of the General Assembly in view of the importance of the struggle of peoples suffering under racist régimes and colonialism to achieve independence and exercise their right to self-determination. Every excuse put forward by certain States to thwart the advance of national liberation movements must be eliminated.

2. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) said that the work of the Vienna Conference was an important step forward in the creation of a firm international legal basis for improving the co-operation of States within the framework of international organizations. The elaboration and adoption of the Convention on the Representation of States in Their Relations with International Organizations of a Universal Character was a significant contribution to the development and strengthening of progressive norms of international law in that important field. The establishment of an increasing number of missions of States to international organizations and the growth in the number of international conferences further increased the practical importance of that Convention, whose primary value was to ensure a proper legal framework and normal conditions for holding such conferences. Unfortunately, there were still many constraints on, and even direct violations of, the privileges and immunities of missions to international organizations, in particular the United Nations. Attacks against mission premises and harassment of, or even the use of physical force against, mission staff and delegates were by no means isolated incidents. Examples of arbitrary treatment by airport personnel, the unlawful levying of taxes, restriction of movement, the creation of unjustified difficulties in issuing visas, and the use of coercive measures with regard to transport were also numerous. Such violations were all the

/...

(Mr. Stepanov, Ukrainian SSR)

more regrettable in light of the efforts to deepen and strengthen détente. In view of that situation and the small number of countries which had ratified the Convention it was time to review the state of signatures to the Convention, which his country had ratified in 1978. The accession to the Convention of all countries, especially those which were hosts to international organizations, would be of great legal, moral and political significance, and would ensure normal working conditions for missions and their staff, allowing delegates to freely carry out their functions at international conferences. For that reason, the General Assembly should urgently call upon all States which had not yet done so to ratify or accede to the Convention as soon as possible.

3. He reiterated his delegation's support of the resolutions in question and stressed that they merited the special consideration of the General Assembly. The adoption of the resolution relating to the observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States would be the logical culmination of the process of decolonization and the struggle of peoples for independence in countries still under colonial rule. The recognition of the representatives of the national liberation movements gave important moral and political support to peoples struggling against colonialism. In recent years the United Nations had taken a number of important steps in that direction by inviting the national liberation movements recognized by the Organization of African Unity and/or the League of Arab States to participate as observers in meetings of various United Nations bodies and in the work of a number of international conferences.

4. The adoption of the resolution relating to the application of the Convention in future activities of international organizations would promote the effective functioning of international organizations, the strengthening of the international legal status of the missions of States and the creation of the necessary conditions for carrying out the normal activities of those organizations and conferences.

5. Miss SILVERA (Cuba) said that her delegation welcomed with satisfaction the inclusion of item 118 in the agenda of the Sixth Committee. Cuba had been one of the 29 countries which had sponsored the resolution relating to the observer status of national liberation movements recognized by the Organization of African Unity and/or the League of Arab States. The practice established by the United Nations of inviting national liberation movements to participate as observers in international conferences in pursuance of resolutions to that effect constituted a solid legal basis for the elaboration of a general norm designed to extend the privileges and immunities enjoyed by permanent delegations in various international bodies to delegations which participated with special observer status, as was warranted by the role which the latter played in taking political decisions affecting international peace and security. For that reason, the granting of privileges and immunities to observer delegations and their auxiliary staff should not be the exclusive prerogative of the host State, since the legal basis for inviting delegations as observers was to be found, not only in United Nations resolutions, but also in the statutes of international organizations and in established practice.

6. Her delegation felt that the rights of the observer delegations should be duly protected by the United Nations in order to achieve the objectives of the Organization. It was, therefore, necessary to adopt no later than at the next session of the General Assembly rules which would give equal treatment to the rights

(Miss Silvera, Cuba)

and prerogatives of the national liberation movements represented by observer delegations.

7. In conclusion, she stated that the General Assembly should consider the resolution relating to the application of the Convention in future activities of international organizations and recalled the difficulties experienced at the Vienna Conference in agreeing on a convention on the privileges and immunities which States and observers merited in their relations with international organizations.

8. Mr. BUBEN (Byelorussian Soviet Socialist Republic) said that the Vienna Convention of 1975 was one of a number of international agreements designed to improve the relations of States with other States and with international organizations. It was essential to promote the adoption and observation of the Convention by all States in order to further strengthen the rule of law and order in international relations. He expressed concern that the Convention had still not entered into force because it had not been ratified by the required number of States. His country had ratified the Convention in 1978. The accession of all States to the Convention was all the more imperative in view of the importance of the Convention in establishing and maintaining normal diplomatic relations between sending States and host States in order to ensure the effective functioning of the permanent missions and the observer missions. It would be especially desirable for the host States of the main international organizations and the States which accommodated international conferences to become participants to the Convention. The entry of the Convention into force and the observance of the new provisions of international diplomatic law would be a new step forward towards strengthening the rule of law in international relations and a development fully in keeping with the efforts to bring about détente.

9. The resolution relating to the observer status of national liberation movements was in accordance with the recently established practice of inviting national liberation movements recognized by the Organization of African Unity and/or the League of Arab States to participate as observers in the work of organizations of the United Nations family and conferences held under its auspices. The participation of the national liberation movements in the work of international conferences gave the world community an opportunity to better understand the problems facing them in order to promote the effective solution of those problems and was an effective means of training members of the national liberation movements to deal with international problems. His delegation, therefore, in accordance with its position supporting the just struggle of peoples under colonial and racist rule and foreign occupation for their national liberation, stressed the need to fully implement the appeal of the Conference to States to accord to delegations of national liberation movements which were recognized by the Organization of African Unity and/or the League of Arab States and which had been granted observer status the privileges and immunities necessary for their effective participation in the work of international bodies and conferences.

10. Mr. KOTEVSKI (Yugoslavia) said that it was necessary to make progress in the implementation of the two resolutions under consideration. The resolution relating to the status of the national liberation movements was of particular importance for two reasons: it would permit the representatives of the national liberation movements to discharge their functions in international organizations, and it would have an impact on the functioning of the international organizations themselves. In view of the practice that had been widely followed since the beginning of the 1970s,

/...

(Mr. Kotevski, Yugoslavia)

it was time to study the problem and take appropriate steps to facilitate the implementation of the decisions on the special status accorded to the liberation movements in international organizations. An analysis of that practice and corresponding international and national rules would greatly facilitate that task. However, in view of the lack of time and necessary materials, his delegation supported the request to include that item in the agenda of the next session of the General Assembly. His delegation would also support any proposal designed to enable States to devote due attention to that important question at the thirty-fifth session of the General Assembly.

11. Miss MALIK (India) said that her delegation supported the granting of functional privileges and immunities to national liberation movements recognized by the Organization of African Unity and by the League of Arab States in their respective regions. India had been one of the sponsors of the relevant resolutions at the United Nations Conference on the Representation of States in Their Relations with International Organizations. In its resolution 2787 (XXVI), the General Assembly had confirmed the legality of the peoples' struggle for self-determination and liberation from colonial and foreign domination and alien subjugation. Ever since the adoption of that resolution in December 1971, the national liberation movements recognized by the Organization of African Unity and/or the League of Arab States had been invited to participate as observers in the deliberations of several specialized agencies and international conferences. That practice had been endorsed in a number of resolutions adopted by the General Assembly, the Economic and Social Council, UNESCO, WHO and FAO. In 1974, in its resolution 3237 (XXIX), the General Assembly had, in addition, invited the Palestine Liberation Organization to participate in its work, as well as in that of all international conferences convened under its auspices or under the auspices of other organs of the United Nations. It was both legitimate and necessary to define the status and the privileges and immunities of observer missions and observer delegations of national liberation movements, in order to ensure the effectiveness of their contribution. Her delegation suggested that the articles relating to observer missions and observer delegations of States should be made applicable mutatis mutandis to the observer missions and observer delegations of recognized national liberation movements.

12. In that connexion, the attention of her delegation had been drawn to the difficulties and problems that had been faced by representatives of the African National Congress of South Africa and the Pan Africanist Congress of Azania, both of which had been recognized by the Organization of African Unity, in obtaining the visas they needed in order to attend certain meetings. Such problems hampered them in the discharge of their functions. The Indian delegation suggested that the Secretary-General should be requested to prepare a working paper on the problems faced by various national liberation movements and on the functional privileges and immunities granted to observer missions of States in order to enable the Sixth Committee to examine the whole question of representation of national liberation movements and to ensure that their representatives were granted the privileges and immunities necessary for the proper discharge of their duties.

13. Mr. SEALY (Trinidad and Tobago) pointed out that the Vienna Convention on the Representation of States in Their Relations with International Organizations of a

/...

(Mr. Sealy, Trinidad and Tobago)

Universal Character provided for the granting of privileges, immunities and facilities to permanent missions of States to international organizations and of delegations to organizations. At the United Nations Conference on the Representation of States in Their Relations with International Organizations, resolutions had been introduced which had sought to extend those privileges to delegations of national liberation movements recognized by the Organization of African Unity and the League of Arab States. It was his understanding that situations had arisen, and would undoubtedly arise again, where members of national liberation movements, especially those of South Africa, had been hindered from participating in meetings of various United Nations bodies where their contribution was essential for a full appreciation of issues such as apartheid. On some occasions, the host country had refused to issue appropriate visas to representatives of those liberation movements. His delegation endorsed the suggestion that had just been made by the representative of India and hoped that the General Assembly would take action, at an appropriate time, to facilitate the participation of representatives of national liberation movements in the work of the various organs of the United Nations.

AGENDA ITEM 113: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES: REPORT OF THE AD HOC COMMITTEE ON THE DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES (continued) (A/34/39; A/C.6/34/L.12 and L.14)

14. Mr. ZEHENTNER (Federal Republic of Germany), speaking as Chairman-Rapporteur of the Working Group on the Drafting of an International Convention against the Taking of Hostages and introducing the report of the Working Group (A/C.6/34/L.12), pointed out that, as was recalled in paragraph 14 of the report, work on the item had proceeded on the basis of the package-deal approach as the best way of arriving at a consensus. In keeping with that approach, he would try to give the Sixth Committee a complete picture of the results achieved within the Working Group.

15. The report first described, in paragraphs 1 to 16, the proceedings of the Working Group. It then reproduced the preamble and articles 1 to 19 as they had emerged from the discussion in the Working Group. As appeared from paragraph 15, the Working Group had not quite completed the drafting, since negotiations were still going on in relation to article 9. He wished, however, to point out that the decision of the Working Group to bring its work to a halt before final completion of the draft had merely reflected the Group's desire to present the Committee with concrete results sufficiently early to allow delegations to prepare themselves for the discussion on which it was now embarking. It did not reflect any negative assessment on the part of the Working Group as to the prospects of agreement on the draft as a whole.

16. A cursory reading of the draft and its 15 foot-notes might give the impression that many questions were still unresolved. A more careful analysis would, however, reveal that the outstanding issues were all closely interrelated and that most of them would automatically disappear once agreement was reached on a few more points. In that connexion, he was pleased to report that advantage had been taken of the

/...

(Mr. Zehentner, Federal  
Republic of Germany)

last few days to iron out some of the outstanding difficulties through informal consultations and that the Working Group was today closer to bridging the remaining gaps than it had been a week earlier.

17. At its 1979 session, the Ad Hoc Committee had not had time to discuss the whole preamble. The Geneva draft had contained a paragraph, to be included in the preamble, which had not given rise to objections in the Ad Hoc Committee although several delegations had reserved their positions in relation thereto pending consideration of the preamble as a whole. In the Working Group, the first two preambular paragraphs as they appeared in document A/C.6/34/L.12 had gained easy approval. The third and fourth paragraphs had proved more difficult to draft, but he was pleased to inform the Sixth Committee that further consultations had led to the text appearing in document A/C.6/34/L.14, which had just been circulated. The paragraph worked out in Geneva now appeared as the fifth preambular paragraph. As was indicated in foot-note 7 of the report of the Working Group, two delegations had made reservations in relation to that paragraph, one of them referring specifically to the phrase "as manifestations of international terrorism".

18. Turning to article 1, he noted that the beginning of paragraph 1 had been somewhat rearranged for purely stylistic reasons and that the listing of third parties in separate subparagraphs had been replaced by a simple enumeration in which former subparagraphs (c) and (d) had been merged into a single phrase reading "a natural or a juridical person" and to which had been added, for the sake of completeness, a reference to "a group of persons". Again, the end of the paragraph had been replaced by neater and more succinct language. It should be noted that, according to agreed interpretations, the listing of third parties was intended to be exhaustive and that the phrase "international intergovernmental organization" covered universal, regional and subregional organizations of an intergovernmental character.

19. In article 1, paragraph 2, the words "is an accomplice" had been replaced by "participates as an accomplice", following the pattern of article 2, paragraph 1 (e), of the New York Convention. Again according to an agreed interpretation, the concept of participating as an accomplice was intended to cover aiding and abetting, conspiring or otherwise being an accessory. For the rest, paragraph 2 had remained unchanged except for the replacement of the word "also" by "likewise" and the words "within the meaning of this Convention" by "for the purposes of this Convention".

20. Article 2 had remained unchanged except for the replacement for grammatical reasons of the words "their grave nature" by the words "the grave nature of those offences" (in French "la nature grave de ces infractions"). The words "Contracting States" had been systematically replaced by "States Parties" throughout the draft in the light of the terminology adopted in the Convention on the Law of Treaties.

21. In article 3, the only change made related to the concluding part of subparagraph (a) where the four verbs had been placed in a more logical sequence. Regarding the order of articles, he drew attention to the decision recorded in foot-note 8.

/...

(Mr. Zehentner, Federal  
Republic of Germany)

22. With respect to article 4, he wished to point out that the words "when relevant" had been added towards the end of paragraph 1 in response to the observation that facilitating the departure of the hostages would be pointless in those cases where the hostage happened to be in his own country. In paragraph 2, the word "illegally" had been deleted, since it was difficult to see how an object could have been legally obtained from a hostage in the context of an act of hostage-taking. The latter part of paragraph 2 had been somewhat redrafted so as to cover the case where the object had been obtained from the third party.

23. In article 5, the words "that are committed" had been included in the chapeau to avoid a clumsy repetition in subsequent paragraphs. The order of subparagraphs (b) and (c) had been reversed and a reference to the case of stateless persons and to the criterion of habitual residence had been included in subparagraph (b), as an optional basis of jurisdiction left to the discretion of the State concerned. Subparagraph (d) had been slightly redrafted for purely stylistic reasons. Paragraphs 2 and 3 remained unchanged.

24. Article 6 had undergone more substantial changes. Paragraphs 1 and 2 of the Geneva text had been merged and the text which had previously appeared as paragraph 1 had been somewhat modified in order to avoid the repetition of the words "custody" and "other measures". Two other slight drafting changes had been made, namely, substitution of the words "for such time as is necessary" for "for such time as it is necessary" and substitution in the last sentence of the paragraph of the words "That State Party" for "Such State".

25. In paragraph 2 (formerly paragraph 3) of the same article, the words "the person or the body corporate" had been replaced by "the natural or juridical person" in the light of the similar change made in article 1, to which he had referred earlier. Also for the sake of consistency, the words "he has his habitual residence" had been substituted for the previous language at the end of subparagraphs (d) and (e). Finally, and following the model of article 6, paragraph (d), of the New York Convention, an additional subparagraph (g) reading "all other States concerned" had been added at the end of paragraph 3. In subparagraph (a) of paragraph 3 (formerly paragraph 4), the criterion of habitual residence had been substituted for the one provided for in the original text as far as stateless persons were concerned: it had been pointed out that the previous formulation was unsatisfactory inasmuch as it had the effect of placing stateless persons in a more favourable position than nationals.

26. Two new paragraphs had been inserted as paragraphs 4 and 5 respectively. The language of paragraph 4 was borrowed from article 36, paragraph 2, of the Vienna Convention on Consular Relations. As to paragraph 5, it had been included in the text by the Drafting Group and had been approved in a slightly revised form by the Working Group. Paragraph 6 reproduced the terms of former paragraph 5.

27. The only change which had been made in article 7 related to the substitution of "States concerned" for "States Parties" towards the end of the article. Article 8 was likewise practically unchanged except that the adjective "serious"

/...



(Mr. Zehentner, Federal  
Republic of Germany)

towards the end of paragraph 1 had been replaced by the adjective "grave", used in article 2 to qualify the nature of the offences mentioned in article 1, and that the word "State" had been substituted for the word "country" in the last line of paragraph 2 for the sake of consistency.

28. Article 9 had been substantially revised. As members knew, that provision had not been agreed upon in Geneva. As was indicated in foot-note 11, the text appearing in the report (A/C.6/34/L.12), although the result of protracted consultations, was not yet final; in that connexion, he drew attention to the relevant outstanding proposals contained in the appendix. However, the area of disagreement had been narrowed down and he had just been informed that a generally acceptable text was being worked out.

29. The text of article 9 as it had appeared in the Geneva text had been found unacceptable by a number of delegations on account, in particular, of the drafting of the opening phrase in the form of a strict obligation incumbent upon States Parties. The redraft as set forth in document A/C.6/34/L.12 was intended to meet the concerns expressed in that connexion. In subparagraph (a) the words "ethnic origin" had been included after the word "nationality". Furthermore, the concepts contained in subparagraphs (b) and (c) of the original text had been linked together within subparagraph (b). Another paragraph (paragraph 2), the effect of which was limited to the offences covered by the Convention, had been added to take care of possible incompatibilities between the provisions of article 9 and existing extradition treaties and arrangements.

30. Article 10 was unchanged except for the substitution in the third line of paragraph 2 of the words "the requested State" for the pronoun "it".

31. Article 11 was also unchanged. As to article 12, its two paragraphs had been divided into two separate articles, but the text itself was identical to what had been agreed upon in Geneva.

32. In article 13, the words "in contravention of the Charter of the United Nations" had been moved to the end of the sentence to make the text clearer.

33. Article 14 was identical to article 12 of the New York Convention. Although there had been some prior discussion of certain issues with some relation to the material covered by the article, the Working Group regarded article 14 as self-explanatory. He merely wished to draw the attention of the Committee to the relevant outstanding proposals contained in the appendix to the report.

34. Article 15 was identical to the original text.

35. In article 16, the future tense in paragraph 3 had been replaced by the present tense to make it clear that States would not have to wait for the lapse of the time-period referred to in paragraph 1 before they could accede to the Convention. A symmetrical change had been made in paragraph 1 for the sake of consistency.

/...

(Mr. Zehentner, Federal  
Republic of Germany)

36. Article 17 was identical to the original text.

37. In article 18, the time-period provided in paragraph 2 had been extended to one year as a result of the desire of some delegations to reduce the risk of denouncing States being relieved of their obligations under the Convention with respect to offences committed prior to the denunciation.

38. As to article 19 and the testimonial clause, they were modelled on the corresponding provisions of the New York Convention, save for the addition of Arabic as one of the authentic languages of the Convention.

39. Having thus reviewed the technical aspects of the work carried out by the Working Group, he wished to make a few personal remarks on the draft that was now before the Sixth Committee. He believed that the legal, political and humanitarian significance of the text and the achievement which adoption of a convention based on it would represent for the United Nations were obvious to all delegations. There was, however, an element which, as Vice-Chairman of the Ad Hoc Committee and Chairman of the Working Group, he had been in a privileged position to appreciate, and that was the amount of energy, imagination, patience, goodwill, political wisdom and conciliation which had gone into the draft. That tremendous human and intellectual investment coming from all quarters had enabled the Ad Hoc Committee to advance a long way since its first session in 1977. Two years after that discouraging beginning, the Committee had a text with only a few points still outstanding. He was sure he echoed the feelings of many delegations in saying that it would be a great pity if, having come so close to the goal set by the General Assembly in its resolutions 31/103, 32/148 and 33/19, the Sixth Committee was now to report to the General Assembly that it had been unable to fulfil its mandate. Not only would such a failure frustrate the painstaking efforts of various groups and delegations to have points of particular interest to them reflected in the convention, it would also and even more regrettably mean that the Organization had narrowly missed an opportunity to contribute to the enhancement of the purposes and principles of the United Nations and of fundamental human rights. It was therefore his earnest hope that the Sixth Committee would approach the task that remained to be done in a constructive and positive spirit and would successfully and by consensus put the final touch to the draft before it.

40. In conclusion, he expressed his sincere appreciation for the invaluable support, encouragement and advice received by the Working Group over the past few weeks from the Secretariat. In particular, he wished to pay special tribute to the untiring dedication of Miss Jacqueline Dauchy, Senior Legal Officer in the Codification Division of the Office of Legal Affairs.

41. The CHAIRMAN said he wished to echo the sentiment expressed by the Chairman of the Working Group that the time was very appropriate for the draft to be considered by the Sixth Committee. He hoped it would be possible to achieve the goal set by the General Assembly.

42. Before inviting debate on the report which had just been introduced, he informed the Sixth Committee that he had received from the Delegate to International Organizations of the International Committee of the Red Cross (ICRC) a letter referring to the draft Convention as prepared by the Working Group and asking him, as Chairman of the Sixth Committee, to bring the comments of the International Committee of the Red Cross to the attention of the Sixth Committee. In its letter, the International Committee of the Red Cross noted that, while it could not take a position on the draft Convention as a whole, it wished to submit a few comments on article 6, paragraph 5, which referred to ICRC, as well as to express its appreciation to the authors of the draft Convention for the confidence they had shown in it as a humanitarian, neutral and independent institution by expressly mentioning it in the draft Convention. After stating that the role that it might be called upon to play under article 6 was fully consistent with its obligation under its own statutes and those of the International Red Cross to study any matter and take any humanitarian initiative falling within its function as a specifically neutral and independent institution and intermediary, ICRC maintained that it should remain free to accept or refuse, in the light of circumstances, any invitation of the kind envisaged; it was therefore gratified that the word "invite" was used in the draft prepared by the Working Group. ICRC would not in fact act without the agreement of the State in which the person was held and the agreement of the State of which he was a national. Furthermore, ICRC would prefer to agree to act only if the visit of a State representative, as provided for in the draft Convention, proved impossible.

43. The letter went on to state that ICRC would not consider itself as representing the requesting State and would act quite independently and only on the basis of humanitarian criteria. Should it prepare a report on the visit, it would send it to both the requesting State and the holding State.

44. In conclusion, the letter referred to the practical action that ICRC might agree to take if it were invited "to communicate with and visit the alleged offender". Visits by ICRC to all categories of prisoners were subject to certain procedures which were essential if they were to be of real value. In particular, ICRC must be able to visit a detained person without witnesses and repeatedly. It would therefore not visit a detained person unless the detaining State accepted those procedures. In addition, ICRC itself communicated with a detained person only by visiting him. On the other hand, ICRC might agree to transmit family messages to the detained person and vice versa if there was no other means of doing that. It was in that sense that the possibility of ICRC "communicating" with the detained person was interpreted.

45. Mr. MALEK (Lebanon) said that he wished to speak on certain points of principle concerning the draft Convention as presented in document A/C.6/34/L.12, together with the revisions in document A/C.6/34/L.14. For a number of years there had been a clear trend in international penal law towards the prevention and punishment of international crimes. Despite repeated efforts the United Nations had not yet succeeded in drawing up a code of crimes against peace and security,

(Mr. Malek, Lebanon)

or in establishing an international criminal jurisdiction, but international legislators were continually being obliged to review existing new rules or establish new rules in order to deal with growing international criminality. Over the past decade legal rules had been or were being established, through the conclusion of conventions, for the punishment of a series of crimes against international public order, including such crimes as the unlawful seizure of aircraft, a relatively recent phenomenon, and the taking of hostages, which, although long recognized as punishable by international law, had recently become a matter of grave concern to the whole international community.

46. The taking of hostages, like any other act whose repercussions went beyond the boundaries of an individual State, was of particular gravity, and all efforts to organize its punishment must be welcome. Obviously such an act had all the characteristics of a serious crime under international law, and must be treated as such. Its international character arose, not only from the complexity of the international legal problems to which it led, but primarily from the urgent need to deal with it at the international level. It was essential to ensure that the act of hostage-taking, which endangered innocent lives, should have a legal status, so that as far as possible it could be effectively prevented and punished.

47. He wished to express his gratitude to the delegation of the Federal Republic of Germany for having produced the initial draft of a convention on the subject. The revised version of the preamble was an improvement over the original text, but it could be further improved. The expression "international terrorism" was too inexact and too controversial to be used in the proposed Convention. Moreover, it gave no indication of the legal nature of the act to be prosecuted, or the harmfulness and dangers of an act that was particularly serious in itself, quite apart from its immediate consequences. Accordingly, the preamble would be greatly improved by the inclusion of wording to the effect that the taking of hostages constituted a crime under international law and was inherently a serious crime.

48. It was true that those who committed crimes under international law could not, in the absence of an international criminal jurisdiction, be prosecuted except in national courts. However, the indictment did not lose its international character. Moreover, such courts, although nationally organized, had an essentially international character in terms of the functions they were performing. They were called on to prosecute international offenders on behalf not only of the States to which they belonged but also of all other States. They were carrying out a task that should normally be carried out by an international jurisdiction. Thus they were acting as judicial bodies under an institutionally defective international legal order.

49. Article 1 of the revised version was better drafted than in the original text. However, he would like to see in the French text the word "pénale" inserted after the word "infraction" in paragraphs 1 and 2. That was the wording used in the Hague and Montreal Conventions.

(Mr. Malek, Lebanon)

50. Article 2 was also better in its amended form. It seemed to take into account the inherent gravity of the punishable act. His delegation interpreted article 2 to mean that the act of hostage-taking, even where it did not give rise to a major crime, should carry a sufficiently severe penalty. It was regrettable that the expression "severe penalties", which had originally been included in the draft Convention, in line with the Hague and Montreal Conventions, had been dropped. That more precise term would have had the advantage of obviating different interpretations. Although it would not be appropriate to establish a given penalty in a draft convention of the type under review, it was necessary to make it clear, at least in general terms, what kind of penalty should be imposed on the guilty person.

51. The remaining substantive articles established essentially the same rules as those laid down for other crimes against international public order, including the crime of unlawful seizure of aircraft dealt with in the 1970 Hague Convention, to which Lebanon was a party.

52. However, he felt obliged to comment on the denunciation provision in article 18. It was an unfortunate provision, and at the time when the two Conventions dealing with international crimes against aircraft were being drafted, it had fallen to him, as representative of the Office of Legal Affairs of the Secretariat, to oppose the inclusion of such a provision in both Conventions, but his objections had not prevailed. In the drafting of a multilateral treaty the overriding concern was often to ensure that the largest possible number of States should accede, and it was believed that if a State knew in advance that it could escape from its obligations by denouncing the treaty, it would be more likely to accede. Nevertheless, his delegation could not see how a State which undertook in a convention to prosecute a person committing a crime "of grave concern to the international community" could be authorized by that same convention to free itself of that obligation.

53. However that might be, the draft convention in its present form was acceptable to his delegation in principle, and any short-comings or gaps it might have did not appear serious enough to justify delaying its adoption. In any case its effectiveness, once it was concluded, would in the last analysis depend on the spirit in which it was applied.

54. Mr. MALAMBUGI (United Republic of Tanzania) said that his delegation opposed acts of hostage-taking, which were manifestations of international terrorism, and consequently was not against the adoption of a convention on the subject.

55. However, his delegation had a number of objections and reservations to make concerning some of the provisions of the draft Convention. It had reservations about the preamble, in particular the second sentence of the fourth preambular paragraph which, together with the third preambular paragraph, had been a source of conflict in both the Working Group and the Drafting Group, where no agreement had been reached. The second part of the fourth preambular paragraph was unnecessary, since it repeated what was to be found in the fifth preambular paragraph and in

/...

(Mr. Malambuqi, United Republic of Tanzania)

article 8; it was also offensive, because the domestic legislation of his country did not allow of extradition in the absence of an extradition treaty. Consequently, neither the fourth preambular paragraph nor article 8 as shown in document A/C.6/34/L.12 was acceptable. His country stood by the decision of the African Group and the amendment submitted by that Group to the fourth preambular paragraph, although it could accept the third formulation as presented in the appendix to document A/C.6/34/L.12. The formulation in document A/C.6/34/L.14 was not acceptable, since the interests of the national liberation movements were not sufficiently safeguarded. Those movements were referred to as "terrorist movements" by the Powers traditionally opposed to liberation, and the protection supposedly offered to liberation movements by article 12 had been made both vague and illogical by the manoeuvring of those Powers. His delegation could not support the first part of article 12 reading: "in so far as the Geneva Conventions of 1949 for the protection of war victims or the Additional Protocols to those Conventions are applicable to a particular act of hostage-taking, and in so far as States Parties to this Convention are bound under those Conventions to prosecute or hand over the hostage-taker". That provision was a potential source of confusion, and his delegation had suggested its deletion, but not that of the rest of article 12, which was clear and provided enough protection for liberation movements. His delegation still stood by its proposed amendment. If it was not accepted, his country's accession to the Convention would be in doubt.

56. His delegation was dismayed at the omission of compulsory conciliation as an alternative to arbitration. Article 15 could easily have been redrafted so as to include compulsory conciliation simply by adding the words "or conciliation" after the word "arbitration" at the end of the first sentence of article 15, paragraph 1. The Convention should provide for as many methods of dispute settlement as possible.

57. He hoped that it would still be possible to accommodate his delegation's difficulties. If the draft Convention was rushed through it might remain on the statute books as an instrument of no more than historical interest. Accommodation of various interests was essential to ensuring as many ratifications as possible, and those countries that set out to score diplomatic victories would have only themselves to blame if the Convention was not widely ratified.

58. Mr. MAZILU (Romania) said he was pleased to note that certain comments made in the Sixth Committee had been taken into account in the amended text. Romania supported the drafting of a convention designed to encourage international co-operation to prevent and combat the taking of hostages. That stand was based on Romania's position of principle that terrorist acts could not be countenanced, justified or approved, since terrorism merely hindered or prevented any solution to a problem. The fight against terrorism required a study of its causes in order to eliminate them and to draw up legal instruments that could promote international co-operative action against such acts, which had serious consequences for international security, relations between States, and human life and safety.

59. In view of the special importance of adopting such a Convention, and the need for it to become an effective legal instrument, further work on the text was needed, so as to define more clearly the offences and ensure application of the rules laid

/...

(Mr. Mazilu, Romania)

down. Article 9 should be improved with a view to removing the various interpretations to which it could give rise in its present form, as should article 14 and some parts of the preamble.

60. Romania would give its final verdict after the competent Romanian authorities had had time to study the new wording in detail. The final text agreed on must constitute an effective instrument to combat all acts of hostage-taking and to promote co-operative action against them.

61. Mr. VERCELES (Philippines) said he had been a member of the Drafting Group, and thought that the important statement made by the representative of the Federal Republic of Germany and Chairman-Rapporteur of the Working Group contained clarifications concerning interpretations or understandings of delegations as expressed in the discussions in the Drafting Group and the Working Group that would be most useful in the eventual interpretation of the text of the Convention. He therefore asked that that statement should be issued in extenso.

62. Mr. CALERO-RODRIGUES (Brazil) said he was pleased that some of the drafting difficulties he had had with the earlier text had been removed by the revised version. The present text represented what the Sixth Committee had hoped to achieve. Now that the various views had been taken into account and a number of compromises had been arrived at, he hoped that there would be no delay in formally approving the draft Convention. He was aware that some delegations, like that of the United Republic of Tanzania, still wished to press certain points, but he doubted that it was really possible now, or that it ever would be, to take account of all views. He believed the draft Convention was not likely to be much improved. It would be a great achievement if a convention could be adopted at the present time, as it would show that Member States were capable of co-operating to produce a new instrument of international law to deal with problems that greatly troubled the international community. His delegation was ready to approve the text at the present session.

63. The CHAIRMAN said, in reply to a question from Mr. SIMANI (Kenya), that a further two or three meetings might be devoted to the discussion of item 113 during the following week.

AGENDA ITEM 117: REGISTRATION AND PUBLICATION OF TREATIES AND INTERNATIONAL AGREEMENTS PURSUANT TO ARTICLE 102 OF THE CHARTER OF THE UNITED NATIONS: REPORT OF THE SECRETARY-GENERAL (continued) (A/C.6/34/5)

64. The CHAIRMAN said that, in accordance with the decision taken at the 52nd meeting, he had informed the Chairman of the Fifth Committee of the recommendation, in paragraph 6 of document A/C.6/34/5, on the importance of re-establishing order at the earliest opportunity in the registration and publication of international agreements.

The meeting rose at 12.40 p.m.