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at 3 p.m.

New York

SUMMARY RECORD OF THE 4th MEETING

Chairman: Mr. GUNA-KASEM (Thailand)

CONTENTS

AGENDA ITEM 112: MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS, AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES: REPORT OF THE AD HOC COMMITTEE ON INTERNATIONAL TERRORISM

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

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The meeting was called to order at 3.05 p.m.

AGENDA ITEM 112: MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS, AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES: REPORT OF THE AD HOC COMMITTEE ON INTERNATIONAL TERRORISM (A/34/37; A/34/387, 403, 429, 435 and 498)

1. Miss MALIK (India), introducing the report of the Ad Hoc Committee on International Terrorism (A/34/37) on behalf of the Chairman of that body, recalled that in paragraph 7 of resolution 32/147 the General Assembly had invited the Ad Hoc Committee to continue its work in accordance with the mandate entrusted to it by the Assembly under resolution 3034 (XXVII) of 18 December 1972, first by studying the underlying causes of terrorism and then by recommending practical measures to combat terrorism.
2. In accordance with that mandate, the Ad Hoc Committee had met at United Nations Headquarters from 19 March to 6 April 1979 and, after conducting a study of the underlying causes of international terrorism, had drawn up 11 recommendations to the General Assembly (A/34/37, para. 118).
3. The Ad Hoc Committee had also suggested that Member States and non-governmental organizations which had statistics concerning victims injured and killed in terrorist attacks and the monetary value of property losses occasioned by various acts of international terrorism should furnish them directly to the Secretary-General for purposes of record.
4. Mr. KATEKA (United Republic of Tanzania) recalled that in the seven years that had passed since the item had first been included in the agenda of the General Assembly various attempts had been made to solve the problem of international terrorism and that, although the international community wished that that problem would disappear, there was no agreement regarding the means of achieving that end.
5. The definition of international terrorism was a controversial issue. Some felt that kidnapping, the armed hijacking of aircraft and the taking of hostages constituted international terrorism. Others felt that international terrorism was directed by States and Governments through the use of espionage organizations and mercenaries. There was a consensus that it was necessary to distinguish between the concrete aspects of terrorism in order to attempt to reach agreements concerning them; in that respect, it was encouraging that a draft international convention against the taking of hostages, which was one of the aspects of that problem, had been drawn up.
6. The causes of international terrorism were another controversial issue; while some favoured the adoption of practical measures to combat international terrorism, others felt that the underlying causes should be studied; in that regard, the

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(Mr. Kateka, Tanzania)

exclusion of the national liberation movements from the application of measures designed to eliminate international terrorism posed a fundamental problem. In paragraph 10 of resolution 32/147 the General Assembly had requested the Ad Hoc Committee on International Terrorism to submit its recommendations bearing in mind the provisions of paragraph 3 of the same resolution, which reaffirmed the legitimacy of the struggle of peoples under colonial and racist régimes and, in particular, the struggle of national liberation movements.

7. In the light of what he had said, part IV of the report of the Ad Hoc Committee, which contained the Committee's recommendations, was disappointing, since recommendation 2 merely suggested that the General Assembly should take note of the study of the underlying causes of international terrorism as contained in the report.

8. Recommendation 11 in part IV of the report, whose scope was much narrower than that of paragraph 3 of General Assembly resolution 32/147, was likewise disappointing, since it simply referred to Chapter VII of the Charter, instead of specifically condemning colonialism, racism and situations involving alien occupation which could give rise to acts of international terrorism.

9. He felt that the Committee should consider both the question of the underlying causes of international terrorism, as set forth in working paper A/AC.160/WG/R.1 which had been reproduced in the report of the Ad Hoc Committee, and the question of national liberation movements. In that regard, there were three options: to continue work on the drafting of an international convention on the suppression and punishment of international terrorism, in which case the mandate of the Ad Hoc Committee would have to be renewed; to prepare a General Assembly declaration based on the recommendations contained in part IV of the report, in which case appropriate ways of improving those recommendations would have to be considered; or to acknowledge that the Ad Hoc Committee had failed and terminate its mandate. The last option would represent a setback after seven years of work, and clearly one of the two first-mentioned possibilities would be preferable.

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 (A/34/39)

10. Mr. ZEHENTNER (Federal Republic of Germany), speaking as Vice-Chairman of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages, introduced the final report of that body (A/34/39).

11. The Ad Hoc Committee had held its third session in Geneva from 29 January to 16 February 1979 and had re-established Working Groups I and II in accordance with the former negotiating pattern.

12. Working Group I, which had been requested to examine the thornier questions connected with the drafting of an international convention against the taking of hostages, had considered, in particular, the scope of the convention and the question of national liberation movements, the definition of the taking of

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(Mr. Zehentner, Federal Republic of Germany)

hostages, the question concerning extradition and the right of asylum and respect for the principles of sovereignty and territorial integrity of States with regard to the release of hostages. There had been general agreement that the question of national liberation movements was the key to the solution of the other outstanding issues. After several informal texts had been submitted, the compromise formula in paragraph 18 of the report, which had become paragraph 1 of article 10 of the draft Convention, had been adopted by consensus. However, one delegation had not participated in the consensus.

13. Concerning respect for the principles of sovereignty and territorial integrity of States with regard to the release of hostages, a consensus had been reached on the text contained in paragraph 22 of the report after consultations had been held on various proposed texts and several delegations had expressed the view that, in the light of Articles 1 and 2 of the Charter of the United Nations, it was not necessary to include such a clause.

14. Since agreement had been reached on the two major political issues, Working Group I had found that the various aspects of the definition of the taking of hostages and the scope of the Convention were of a technical rather than a political nature, and had agreed to transfer those questions to Working Group II. One delegation, however, had expressed the view that since the taking of hostages was a manifestation of international terrorism, that fact should be reflected in the preamble to the Convention.

15. On the issue of extradition and the right of asylum, widespread support had emerged in the course of the deliberations in favour of the text appearing at the end of paragraph 24 of the report. Two delegations, however, had expressed reservations with regard to the second sentence of that text, which had been inserted in square brackets as article 14 of the draft Convention.

16. Thus, as a result of the constructive attitude of all members of Working Group I, differences between negotiating groups on outstanding political issues had almost disappeared.

17. The mandate of Working Group II, which had held 14 meetings under his own chairmanship, had covered the draft articles which were generally not controversial or which had been adopted by Working Group I. It had been understood, moreover, that the results of its work would be subject to agreement being reached also on the issues dealt with in Working Group I.

18. With the exception of article 9, which had been placed in square brackets, Working Group II had been able to reach a consensus on all the articles included in its mandate, with the qualification concerning article 7 (8 in the final draft) mentioned in paragraph 61 of the report.

19. The definition of the term "taking of hostages" as set out in article 1 of the draft Convention had originally been part of the mandate of Working Group I. When agreement had been reached there on the question of national liberation movements, Working Group II had been free to deal with that definition and after

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(Mr. Zehentner, Federal Republic of Germany)

considering several amendments to the original text had reached general agreement on it.

20. Concerning article 5, there had been a thorough debate on the proposal to extend the jurisdiction of Contracting States to include, in addition to the offences covered by article 1, other serious acts of violence committed in the course of hostage-taking; but there had been no final agreement on that issue. On the other hand an amendment had been adopted on the so-called passive personality principle, according to which each Contracting State would have jurisdiction over the offences covered by article 1 when the hostage was a national of that State, if the latter considered it appropriate.

21. Following a proposal by Nigeria, an article 6 bis (7 in the final draft) had been added, requiring the State Party where the prosecution was carried out to communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who would then transmit the information to the other States Parties and international intergovernmental organizations.

22. Article 7 (8 in the final draft), which embodied the principle of prosecution or extradition, the key element of the entire Convention, had been discussed in great detail. Some States had proposed that States of so-called secondary jurisdiction should be obligated to prosecute only if they refused to extradite the alleged offender to a Contracting State of primary jurisdiction. Since that proposal had not met with general approval, its sponsors had agreed to drop it and it had been possible to reach a consensus on the article, subject to the reservations of two delegations.

23. There had been no agreement on the proposal for a new article 7 bis (which appeared in square brackets as article 9 of the final draft) which would prohibit extradition under certain conditions, and it would therefore be necessary to reconsider it during the final reading of the draft Convention.

24. Article 10 (12 of the final draft) had also been thoroughly discussed. There had been general agreement that paragraph 1 should be deleted, since it had been found that there was no need for a clause on conflicts. The consensus indicated in paragraphs 79 and 80 of the report had been reached on paragraph 2, which was intended to make it clear that the applicability of the Convention was restricted to cases of hostage-taking with international implications and excluded those committed within a single State.

25. There had not been enough time for a thorough discussion of the preamble to the Convention, and only one paragraph had been agreed upon.

26. As the Ad Hoc Committee indicated in the final part of its report, it had fulfilled its mandate with the preparation of the draft international Convention against the Taking of Hostages which it had recommended to the General Assembly for further consideration and adoption.

27. The CHAIRMAN invited the Committee to take a decision on the membership of the Working Group on the drafting of an international convention against the taking

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(The Chairman)

of hostages and pointed out that, in accordance with paragraph 29 of the report of the Special Committee for the Consideration of the Methods and Procedures of the General Assembly for Dealing with Legal and Drafting Questions, contained in annex II of the rules of procedure of the General Assembly, the Working Group should have a limited number of members; he also recommended that the Group should respect the principle of continuity, so as to carry forward the progress already made in Geneva, and should focus its attention on the issues not yet resolved. He said that, if he heard no objection, he would take it that the Committee decided that the Working Group would be made up of States which were members of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages, with the understanding that its membership would be open-ended.

28. It was so decided.

The meeting rose at 4 p.m.