

United Nations

**GENERAL  
ASSEMBLY**

THIRTY-FOURTH SESSION

Official Records \*



UN/DA COLLECTION

SIXTH COMMITTEE

13th meeting

held on

Tuesday, 9 October 1979

at 10.30 a.m.

New York

---

SUMMARY RECORD OF THE 13th MEETING

Chairman: Mr. ZEHENTNER (Federal Republic of Germany)

later: Mr. GUNA-KASEM (Thailand)

later: Mr. ZEHENTNER (Federal Republic of Germany)

CONTENTS

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)

---

\* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

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

**Distr. GENERAL**

A/C.6/34/SR.13

12 October 1979

ORIGINAL: ENGLISH

The meeting was called to order at 10.40 a.m.

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)

1. Mr. KIRSCH (Canada) said that the Ad Hoc Committee had been able to overcome the serious obstacles to the fulfilment of its terms of reference because of the unanimous rejection by all the States represented on it of the taking of hostages in any circumstances. The members of the Committee had worked hard to harmonize in the draft Convention legal systems differing greatly among themselves and to ensure that equally differing anxieties regarding the substance of certain provisions were also reflected.

2. Although the draft Convention prepared by the Ad Hoc Committee was probably not a complete answer to the wishes of each delegation, no point of view had been ignored. His delegation, along with many others, had renounced certain proposals in which it was interested and agreed to the incorporation of certain articles about which it still had reservations. It had done so because it was convinced of the need for the Convention to be an effective instrument in the international struggle against the taking of hostages and in order to make it possible for States with specific concerns to accede to it.

3. In that spirit, his delegation, despite its many misgivings, had agreed to article 12 of the draft, concerning liberation movements. Similarly, it did not intend at the current stage to present new legal proposals which might represent improvements in the draft Convention. In his opinion, the text could be accepted as it stood, save for certain points of drafting to be decided by the Working Group that had just been established, since a point of equilibrium had been achieved that should be preserved.

4. The CHAIRMAN announced that, for security reasons, the meeting must be suspended.

The meeting was suspended at 10.50 a.m. and resumed at 3.05 p.m.

5. Mr. GUNA-KASEM (Thailand) took the Chair.

6. Mr. KIRSCH (Canada) said that the three questions still to be settled were important but did not present great difficulties in comparison with those which had already been overcome. With regard to the first of those questions, relating to the right of asylum, his delegation believed that there was no conflict between that right and the draft Convention and did not consider the insertion of an article on the matter necessary. However, in view of the position of certain Latin American States and provided that hostage-taking was penalized in all cases in accordance with the rest of the Convention, his delegation would not oppose the adoption of article 14. With regard to the second question, involving article 9, while it understood the humanitarian reasons for which the article had been proposed, his delegation still had reservations about a provision which called in question the

/...

(Mr. Kirsch, Canada)

traditional discretion of States regarding extradition and which, by permitting States to take all the circumstances of each case into account, went beyond the scope of the Convention and introduced a new element into extradition law. His delegation also feared that the article might create difficult problems of interpretation for national courts and give rise to conflicts between contradictory treaty obligations. It was, however, prepared to consider any proposal designed to resolve the difficulties which arose from article 9 in its existing form. Concerning the third question, that of the preamble, his delegation hoped that the adoption of the preamble would not create difficulties for the Sixth Committee and believed that, if the Committee agreed on a short and concise preamble, it would avoid reopening questions that had already been settled.

7. His delegation was pleased to note the broad agreement within the Committee on the problem of hostage-taking and on the measures that might be taken to help solve it. If the Committee did not lose sight of the problem's essential nature and continued to observe the principles on which its work had been based thus far, his delegation was convinced that the Committee could complete its task successfully and submit to the General Assembly, at the end of its thirty-fourth session, a Convention which would represent a major step forward in efforts to combat the taking of hostages and would invite the accession of all States.

8. Mr. OKWONGA (Uganda) said his delegation was pleased to note that the Ad Hoc Committee had been able to make substantial progress in its work and that, with the exception of a few articles, it had agreed on a text for the draft Convention.

9. His delegation supported article 12 of the revised draft Convention, which established an important distinction in the case of armed conflicts in which peoples were fighting against colonial domination and alien occupation. That distinction should erase any doubts about the scope of the Convention and remedied what had been a potentially fatal omission in article 10 of the original draft Convention. Similarly, his delegation was satisfied with the formulation of article 13, believing that the territorial integrity of States should be respected at all times.

10. However, his delegation had difficulties with articles 9 and 14 and believed that the adoption of subparagraphs (a) and (b) of article 9 would, to some extent, undermine the operation of the Convention. As formulated, the article made it possible for an alleged offender to escape prosecution and punishment purely on account of his political opinion and, in addition, introduced certain elements of subjective judgement. He therefore requested the Working Group to address itself particularly to those points with a view to reaching an acceptable solution. His delegation had, meanwhile, taken note of the clarification provided on the matter by the representative of Jordan.

11. His delegation did not see the need for the inclusion of article 14, which raised the question of the circumstances under which a request for asylum could and

(Mr. Okwonga, Uganda)

should be entertained under the Convention. Subject to the answer to that question, his delegation had so far failed to see how a Contracting State could grant asylum to an alleged offender and at the same time commence criminal proceedings in accordance with the terms of the Convention, without seriously prejudicing its position; the two seemed to his delegation to be mutually exclusive. Furthermore, as currently formulated, the second sentence of article 14 made the first legally ineffective in the context of the Convention. His delegation therefore had doubts as to the propriety of including the article at all. However, in view of the importance attached to the matter by some delegations his delegation was prepared to co-operate in an effort to find an acceptable formula.

12. Mr. VIÑAL (Spain) said that the progress made by the Ad Hoc Committee in preparing a draft Convention gave his delegation grounds for hope that the international community would, in the near future, be in a position to rid itself of one of the cruellest manifestations of international terrorism. The draft Convention represented a delicate balance between opposing views and provided a good basis for the future eradication of hostage-taking. However the draft Convention failed to deal with certain important matters, such as the case of concurrent requests for extradition, the questions of non bis in idem, the establishment of time-limits for prosecution and punishment, the possibility of re-extradition, the documents to be supplied with the request for extradition and the possibility of provisional detention.

13. With regard to certain errors contained in the Spanish text of the draft Convention, he said that the Spanish-speaking delegations could provide the Secretariat with a revised Spanish text, based on the English version.

14. Mr. MacKAY (New Zealand) said that, while it had not revealed any dramatic progress, the report of the Ad Hoc Committee to the thirty-third session of the General Assembly (A/33/39) had, in many respects, been an optimistic document. That optimism had been justified by that Committee's report to the thirty-fourth session (A/34/39). The Sixth Committee was currently well placed to conclude its work on the item and to adopt a convention against the taking of hostages. While the general odium with which delegations regarded the taking of hostages was well established, there were clear limitations in the international legal provisions which could currently be applied to acts of hostage-taking. The Conventions of Geneva, Tokyo, The Hague and New York applied only to the taking of hostages in certain situations or involving certain categories of persons. Consequently, the report of the Ad Hoc Committee and the presentation of a draft global instrument to deal with the taking of hostages were both appropriate and timely, as was the Ad Hoc Committee's recommendation that the draft Convention should be submitted to the General Assembly for further consideration and adoption. As the representative of Italy had pointed out, there had in recent years been increasing criticism from all groups about the minor role played by the Sixth Committee in the treaty-making process and about the need for substantive as well as procedural items. The item

(Mr. MacKay, New Zealand)

under consideration and the procedure adopted under it provided the Committee with a substantial legal challenge. He hoped that the Working Group would conduct its work efficiently and expeditiously, so that the substantive gains made at the later session of the Ad Hoc Committee could be confirmed. His delegation was confident of the Sixth Committee's ability to recommend a significant convention for adoption by the General Assembly at its thirty-fourth session.

15. Mrs. DAHLERUP (Denmark) said that the Ad Hoc Committee had succeeded in finding solutions to several difficult and sensitive political problems, such as that of the position of peoples fighting for independence and self-determination, which was provided for in article 12 of the draft Convention, and that of safeguarding the territorial integrity and the political independence of States, which was covered by article 13. The agreed text was the result of intensive negotiations and she hoped that the spirit of collaboration and conciliation which had prevailed in the Ad Hoc Committee's work would also prevail in the Sixth Committee.

16. It was becoming increasingly difficult, especially for smaller States, to participate in all international conferences, and her delegation believed that the elaboration of international conventions in the Sixth Committee, with the participation of all States Members of the United Nations, provided a solution which was economical in terms of both money and manpower. In conclusion, she hoped that it would be possible to complete the preparation of the new Convention at the thirty-fourth session of the General Assembly.

17. Mr. CABADA (Peru) said that, since the Sixth Committee had assumed the task of drafting an international convention against the taking of hostages, Peru had combined its support for the Committee's efforts with practical measures, such as its accession to the Conventions of Montreal, The Hague and Tokyo, and had co-sponsored General Assembly resolution 33/19, which requested the Ad Hoc Committee to make every effort to submit a draft convention to the General Assembly at its thirty-fourth session; it seemed, from the report of the Ad Hoc Committee, that that goal was within reach.

18. Turning to the text of the draft Convention, he said his delegation supported article 12, which it felt would meet the expectations of national liberation movements, as well as article 13, which it believed would prevent States from taking arbitrary action and, in particular, from resorting to the threat or use of force against other States.

19. Article 1 presented no problems of substance; however, he suggested that the Working Group might revise the wording of paragraph 1, subparagraph (b) to correct the apparently pleonastic character of the phrase "international intergovernmental organization". His delegation had no great difficulty in supporting article 9, although it agreed with the representative of Brazil that the article might be revised so that a consensus could be reached; his delegation interpreted article 9 as meaning that a State which did not extradite an alleged offender for the reasons given in that article would initiate the appropriate proceedings in accordance with the Convention.

/...

(Mr. Cabada, Peru)

20. However, his delegation could not accept article 14, because it contained a contradiction which nullified its effects. He expressed the hope that the Working Group would be able to agree on a formula that would satisfy all parties, that would not give rise to discrepancies between international and internal law and that would respect the sovereignty of States.

21. His delegation thought it appropriate that the preamble should be short and concise but was concerned that the phrase "as manifestations of international terrorism" might give rise to problems, since the definition of international terrorism had not yet been established. However, his delegation was prepared to accept the phrase if there was a consensus on it. His delegation shared the optimism of other delegations with regard to the adoption of the Convention at the thirty-fourth session of the General Assembly, as it was convinced that the Working Group would follow the Ad Hoc Committee's example in recognizing and respecting the different legal, political and socio-economic realities of States.

22. Mr. EL GHARBI (Morocco) expressed his delegations's satisfaction with the work of the Ad Hoc Committee; the progress made in the consideration of so complex and controversial a question as that of international co-operation in criminal matters was most encouraging. The submission by the Federal Republic of Germany of a carefully prepared set of draft articles had greatly facilitated the work of the Ad Hoc Committee, as had the competence and calibre of the latter's members and Chairman and the constructive attitude and spirit of conciliation which had prevailed in the Sixth Committee.

23. The Ad Hoc Committee had overcome a major obstacle to the successful completion of its task by the insertion in the draft Convention of article 12, which excluded from the scope of the Convention acts of hostage-taking committed in the course of armed conflicts waged by national liberation movements whose representativeness and legitimacy had been established by the fact that they had been allowed to sign the Additional Protocols to the Geneva Conventions of 1949. Article 12 also referred to the criteria established in that regard by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which while confirming the right of peoples to combat colonial domination, alien occupation and racist régimes also stated that each State had the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State, and that no State should organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State. The Declaration also specified that the principles it set forth were interrelated in their interpretation and application and that each principle should be construed in the context of the other principles. According to article 12, genuinely representative liberation movements were not merely subjects of international humanitarian law but also subjects of general international law. His delegation felt that it would be desirable to include in the draft Convention the logical

corollary of that provision by granting liberation movements which had signed the Additional Protocols to the Geneva Conventions jurisdiction over hostage-takers who claimed such jurisdiction.

24. While the ultimate goal of the Committee's work was the establishment of legal provisions to combat international terrorism, the Committee should not lose sight of the fact that there was no crime so horrible that, in the judgement thereof, the rights of defence should not be scrupulously guaranteed and safeguarded. His delegation therefore supported the proposal made by the representative of Jordan (A/AC.188/WG.II/CRP.9) which it believed would prevent any abuse in the implementation of the Convention and was convinced that, when appropriate wording was agreed on within the Working Group, the proposal could be adopted unanimously.

25. With regard to article 14 of the draft Convention, he suggested that a compromise solution with regard to the right of asylum could be provided by reaffirming, in the preamble to the Convention, the Declaration on Territorial Asylum contained in General Assembly resolution 2312 (XXII). The latter placed limitations on the granting of territorial asylum in referring to article 14 of the Universal Declaration of Human Rights.

26. His delegation had been particularly concerned in the previous four years about the threat to international peace and security presented by large-scale hostage-taking and the detention of persons who had been separated from their families by force or trickery in camps which were kept under strict military surveillance but which by means of heavily financed propaganda were presented to the international community and to international charity as simple refugee camps. Article 3, subparagraph (a), of the draft Convention therefore met his delegation's concerns in that respect.

27. In conclusion, he expressed the hope that the General Assembly would, at its thirty-fourth session, unanimously adopt the final text of the Convention and suggested that it might be submitted directly to States for ratification or accession.

28. Mr. SIRCAR (Bangladesh) said that his delegation, which had not been a member of Working Group I, wished to state its views on the main issues on which that body had focused its attention.

29. With regard to the scope of the draft Convention, his delegation considered that, in so far as the 1949 Geneva Conventions for the protection of war victims or the Additional Protocols thereto were applicable to a particular act of hostage-taking, and in so far as States parties to the Convention drafted by the Ad Hoc Committee were bound under the Geneva Conventions to prosecute or hand over the hostage-taker, the Convention should not apply to an act of hostage-taking covered by rules of international law applicable to armed conflicts as defined in particular in the 1949 Geneva Conventions and the Additional Protocols thereto, including armed conflicts in which peoples were fighting against colonial domination and foreign or alien occupation and against apartheid and racist régimes, in the exercise of the right of peoples to self-determination

(Mr. Sircar, Bangladesh)

embodied in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

30. Although Article I, paragraph 2, of the Charter guaranteed respect for the principle of equal rights and self-determination of peoples, and although Article 2, paragraph 1, of the Charter guaranteed the principle of the sovereign equality of all Member States and Article 2, paragraph 4, enjoined all Members to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, the Convention, being multilateral, should afford adequate and positive protection under international law that nothing in the Convention should be construed or incorporated as justifying the violation, in contravention of the Charter, of the territorial integrity or political independence of a State.

31. Since the question of hostage-taking could be regarded as an aspect of the subject-matter of international terrorism, his delegation reaffirmed the position it had stated in connexion with agenda item 112, namely that acts in pursuance of the inalienable right to self-determination and independence of all peoples under colonial and racist régimes and other forms of alien domination and the legitimacy of their struggle, in particular the struggle of national liberation movements, in accordance with the purposes and principles of the Charter and the relevant United Nations resolutions could not be defined as hostage-taking (A/C.6/34/SR.9, para. 2).

32. With regard to extradition, his delegation was of the view that the extradition of an offender had been regulated under international law by bilateral or multilateral treaties. However, it felt that article 9 as proposed by Jordan deserved consideration.

33. In his delegation's view, the right to grant asylum to any person, whether a victim of politics or one involved or allegedly involved in any offence, was a long-standing right recognized under international law, and the law of asylum remained valid; consequently, none of the provisions of the draft Convention should be interpreted as impairing the right of a State to grant asylum.

34. Referring to respect for the principles of sovereignty and territorial integrity of States with regard to the release of hostages, he said that nothing in the Convention should impair the sovereignty of a State and its right to sovereign equality and territorial integrity as guaranteed by Article 2 of the Charter.

35. As to the nature of the draft Convention, in his view it resembled the 1973 New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the 1963 Tokyo Convention, the 1970 Hague Convention and the 1971 Montreal Convention against aerial hijacking.

36. In conclusion, he welcomed the consensus reached by the Ad Hoc Committee on matters relating to the national liberation movements.

37. Mr. GYAWALI (Nepal) welcomed the consensus arrived at in Working Group I of the Ad Hoc Committee on most of the outstanding problems. He hoped that the redrafting

/...



(Mr. Gyawali, Nepal)

of the preamble and of articles 9 and 14 would be accomplished in the same spirit of compromise. As a sponsor of the resolution which had initiated the drafting of the Convention, his delegation earnestly hoped that it would be adopted by the General Assembly during the current session. Once adopted, the Convention would give a sense of security to innocent people by providing effective measures against one of the worst forms of terrorism. It would also be an important step in combating international terrorism.

38. Mr. VERWEY (Netherlands) said that the Ad Hoc Committee had done an admirable job. His delegation did not claim that the draft text was perfect in all respects and believed that some articles could be further harmonized in order to achieve a text that left as little room for differing interpretations as possible. It hoped that the Working Group of the Sixth Committee would focus its attention on articles 9 and 14, so that the draft Convention could be submitted to the plenary Assembly in time for adoption at the current session.

39. His delegation would have grave problems with regard to article 9, subparagraph (c). With regard to article 14, his delegation had no difficulty in accepting that the right to grant asylum should remain unaffected, provided the application of that right with respect to offenders under the Convention was exercised after the alleged offender's case had been dealt with by the prosecuting authorities, in accordance with article 8 of the draft Convention. The right to grant asylum should therefore be subsidiary to the procedures spelled out in article 8. His delegation would co-operate constructively in the Working Group in the search for a solution to those problems. Furthermore, his delegation thought that the preamble should be short, sober and neutral, avoiding formulations that might lead to conflicting interpretations of the articles of the Convention.

40. The general agreement reached on all other articles of the draft Convention was an impressive accomplishment which reflected the general desire of States to reach agreement. In that connexion, he referred to a proposal submitted by the Netherlands with respect to the introduction of the principle of universality in the Convention, as laid down in articles 5 and 8. Article 5, paragraph 1, conferred upon States primary jurisdiction over offences set forth in article 1, based on the principles of territoriality, protection, active personality and, facultatively, passive personality. Paragraph 2 conferred upon States a secondary jurisdiction in case the offender was present in its territory, based on the principle of universality. His delegation had proposed wording to the effect that the State in which the offender was found need not prosecute if his extradition was not requested by a State of primary jurisdiction. In other words, if the State or States primarily concerned with the case did not deem it necessary to request the extradition of the offender in order to prosecute him, his delegation saw no reason why the State where the offender happened to be found should be obliged to prosecute him. While the Netherlands did not insist on that proposal, it regarded the listing of States with primary jurisdiction as an expression of the duty of those States to bear the heaviest burden of the Convention, as a rule. In other words, the States primarily interested had at least a moral duty to request extradition when the alleged offender was found in a State which, under normal jurisdictional rules, would have no involvement with the crime at all.

/...

(Mr. Verwey, Netherlands)

41. The text of the draft Convention reflected a careful balance and a delicate compromise among the members of the Ad Hoc Committee. A request for substantial changes in one article might lead to requests for similar changes in other articles, thus jeopardizing the work of the Ad Hoc Committee. Although some States not represented in the Ad Hoc Committee had not yet had an opportunity to state their position, his delegation hoped that they would keep in mind that the compromises reached were the result of the common effort to reconcile all the various interests.

42. Mr. YEPEZ (Venezuela) noted that the third reading of the substantive articles of the draft Convention had made it possible to narrow the gap between the various points of view. That augured well for the early adoption of the Convention.

43. One issue which his delegation wished to emphasize was the recognition of and respect for the right of asylum. At the outset of the Ad Hoc Committee's work, Mexico had proposed wording, acceptable to Venezuela, to the effect that none of the provisions of the Convention should be interpreted as impairing the right of asylum (A/AC.188/L.6). However, an additional sentence had later been added, stating that the provision should not affect the obligations of Contracting States under the Convention. That addition rendered the first sentence of article 14 meaningless, and Venezuela was thus unable to accept it.

44. The institution of asylum was deeply rooted in Latin America and was of great importance to the international community as a whole. Venezuela had frequently granted asylum to persons persecuted for political reasons and, whenever so requested, had recognized the asylum granted on political grounds by foreign embassies accredited to Venezuela. Indeed, the right of asylum was part of the fundamental legislation of Venezuela. That was why his country was anxious to determine the extent of any restrictions of the right of asylum in the draft Convention. For example, article 8, paragraph 1, would prevent the country in which the alleged offender was found from granting him asylum. Furthermore, the determination of whether an act had been carried out for political motives - the condition for the granting of asylum - should be a matter for the State granting asylum.

45. The right of asylum was established in other international conventions, such as the 1971 Washington Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance. His delegation would welcome the inclusion of a text along the lines of article 6 of that Convention, which was similar to the text proposed in 1977.

46. Lastly, he hoped that the drafting of the Convention would soon be concluded so that a further instrument would be available to the international community in its efforts to combat international terrorism.

47. Mr. ZEHENTNER (Federal Republic of Germany) resumed the Chair.

48. Mr. KOSTOV (Bulgaria) said that his delegation had frequently condemned all acts of terrorism and violence committed against individuals, organizations or States which jeopardized the lives and safety of innocent persons, disrupted normal intergovernmental relations and created an atmosphere of tension and distrust.

49. The eradication of international terrorism, including the taking of hostages, was an extremely complex question from both the legal and the political standpoints. A final solution to that problem was hardly possible without the elimination of the underlying causes which induced some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Consequently, Bulgaria had steadfastly followed a policy of opposition to colonialism, racism, racial discrimination and apartheid, aggression, interference in the internal affairs of other States, expansionism and hegemonism. Furthermore, Bulgaria was actively participating in international efforts to prevent and punish various forms of international terrorism. It had signed and ratified the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and the 1973 New York Convention in the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

50. Significant progress had been made in drafting the Convention, especially with regard to the key issue, namely, the scope of application of the Convention and the question of national liberation movements. His delegation considered that the compromise formula set forth in the report of the Ad Hoc Committee (A/34/39, para. 18) was a fairly balanced one and reflected the views expressed on the question in the Ad Hoc Committee.

51. Progress had also been achieved on the question of respect for the principles of sovereignty and territorial integrity of States with regard to the release of hostages. The text of article 13 of the draft Convention, although far from perfect, could be regarded as satisfactory.

52. With regard to the preamble to the draft Convention, his delegation fully supported the proposal that it should reflect the view that the taking of hostages was an aspect of international terrorism.

53. As to the outstanding issues, his delegation believed that the Working Group established by the Sixth Committee would be able, in a spirit of compromise, to find a common solution leading to the adoption of a truly effective international instrument. Despite the evident merit of the existing text of the draft Convention, it still embodied certain short-comings, and substantial drafting work remained to be done.

54. Mr. KUESSI JOHNSON (Benin) said that his delegation would work with all progressive revolutionary countries which valued peace, justice and freedom to bring about the speedy conclusion of the drafting of an international convention against the taking of hostages which took account of the legitimacy of the national liberation struggle.

(Mr. Kuessi Johnson, Benin)

55. His delegation welcomed the progress achieved by the Ad Hoc Committee, and noted the determined effort made by Working Group I. It considered that the conclusions reached by the Ad Hoc Committee on the thornier questions made a substantial contribution to the drafting of the Convention, and therefore agreed that the draft text should be referred to the Working Group of the Sixth Committee for article-by-article consideration.

56. However, his country would not let its attention be diverted by certain delegations of capitalist and imperialist countries which resorted to delaying tactics and subtle manoeuvres aimed at calling into question the Ad Hoc Committee's work.

57. Benin opposed all unjustified acts of violence which endangered innocent lives. Contrary to Western propaganda, the countries of Africa, Asia and Latin America, whatever their political orientation, were determined to combat terrorism for the simple reason that they were the first to suffer from it. The progressive and revolutionary countries of Africa, Asia and Latin America which dared to defy international imperialism were daily threatened by destabilization and continued to face serious threats of aggression, as exemplified by the barbarous aggression perpetrated in January 1977 against Benin by mercenaries in the pay of international imperialism.

58. The people of southern Africa who had been disinherited and forced to leave their country were well aware of the nature of international terrorism and the situation of a person held hostage in his own country. The Palestinians and the Arabs in the territories occupied by Israel continued to be subjected to a terrorism similar to that practised by the racists of Pretoria, which was equaled only by Nazi terrorism.

59. Benin would thus subscribe to an international convention against the taking of hostages only on condition that the convention took account of the legitimacy of the national liberation struggle against foreign domination, imperialism, colonialism and racism.

60. He hoped that the Working Group of the Sixth Committee would display courage and objectivity in its work, and felt sure that the outcome of its deliberations would reflect the clear position taken by his delegation.

61. Mr. VERENIKIN (Union of Soviet Socialist Republics) said that in addition to drafting special international agreements to combat the various manifestations of international terrorism, Member States should also take other effective measures to prevent acts of international terrorism, including the taking of hostages. As many Governments as possible should accede to the existing international Conventions dealing with aerial hijacking, the protection of diplomats and the taking of hostages, and should strictly comply with their provisions. The Soviet Union had actively participated in the drafting of those Conventions and was a party to them. States should also conclude bilateral and multilateral agreements concerning the extradition of persons

/...

(Mr. Verenikin, USSR)

who had committed aerial hijacking to the State of registration of the aircraft. The Soviet Union had concluded such agreements with a number of countries. Moreover, it was essential that measures to prevent the taking of hostages adopted at the international level should be strengthened through the adoption by States of legislation designed to punish those who committed such offences. Soviet legislation provided severe penalties for international acts of terrorism, including aerial hijacking and the taking of hostages.

62. With regard to the report of the Ad Hoc Committee, the question of the recommendation to be made to the General Assembly should not be considered until the views of all interested delegations had been heard so that guidelines could be given to the Working Group. Although so far only the 35 members of the Ad Hoc Committee had participated in the drafting of the convention, all interested Member States could now do so. It should be borne in mind that full agreement had still not been reached in the Ad Hoc Committee itself on a number of important points. Moreover, the views of delegations on many articles had still not been reflected in the text. The time factor should also be borne in mind, and the Committee should not concern itself with the consideration of the draft Convention on the taking of hostages to the detriment of its consideration of other more important matters directly related to international peace and security.

63. The Ad Hoc Committee had carried out the task entrusted to it by the General Assembly and the draft Convention could become a basis for co-operation among States in the prevention and prosecution of acts of hostage taking. The Ad Hoc Committee had succeeded in working out a definition of an act of taking hostages which contained almost all the basic elements characterizing that offence. The inclusion of a provision recognizing the right of peoples to self-determination and to use all the means at their disposal, including armed conflict, to achieve freedom from colonial domination, foreign occupation, racial discrimination and apartheid was especially important. The draft Convention must not impair the exercise of that legitimate and just right. In that connexion, his delegation supported the proposal submitted by Algeria and the Libyan Arab Jamahiriya (A/AC.188/L.4) which would include in the preamble provisions making it impossible for the Convention to be used to the detriment of the struggle of peoples for national liberation. At the same time, the Convention must not cast aspersions on the national liberation movements since, as the debates in the Ad Hoc Committee had shown, no delegation intended to reserve to the national liberation movement the right to take hostages. The taking of hostages was generally recognized as a criminal act without exception.

64. Since the text of the draft Convention prepared by the Ad Hoc Committee took all those problems into account, it could serve as a working basis for the drafting of the final text. The preamble should, however, include a provision stating that the goal of the Convention was co-operation between States in the prevention, prosecution and punishment of acts of hostage-taking as manifestations of international terrorism. That idea formed the basis of the General Assembly resolution on the establishment of the Ad Hoc Committee.

(Mr. Verenikin, USSR)

65. The future Convention must not affect the obligations of States deriving from bilateral and multilateral treaties, otherwise it would lead to duplication of existing rules of international law or conflicts between those rules. His delegation had serious doubts with regard to draft article 14, which was designed to include a reference to the right of asylum in the Convention. The adoption of such a provision would weaken the effect of the Convention against persons committing acts of hostage-taking. Hostage-takers should not be granted the right of asylum since under the draft Convention, the taking of hostages was regarded as an ordinary criminal act of a grave nature. Neither the Hague Convention for the Suppression of Unlawful Seizure of Aircraft nor the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation contained a provision regarding the right of asylum. In accordance with the Universal Declaration of Human Rights and the Declaration on Territorial Asylum, the right to asylum might not be invoked in the case of non-political crimes or acts contrary to the purposes and principles of the United Nations.

66. The definition of an act of taking hostages in article 1 should be made more precise. It should state that an act of taking hostages was a manifestation of international terrorism which was unconnected with demands made by the offender directly to the hostage. Acts of taking hostages were committed not to gain something from the hostage, but to compel a third party to do or, abstain from doing, something.

67. Draft article 5 should establish the jurisdiction of States with regard to acts of hostage-taking in the following order. The State in whose territory the offence was committed should first have the right to establish jurisdiction, and in cases where a crime had been committed on board a ship or aircraft, the State of registration of the ship or aircraft should have that right. The State whose national committed the offence should come second and the State of which the hostage was a national third. If the hostages were nationals of different States, the question of which State would have the right to establish jurisdiction could be decided by agreement between the States involved. If none of the States in those three categories made use of the right to establish jurisdiction, that right should be transferred to the State which had suffered serious damage during, or as a result of, the offence. States which were compelled to do or abstain from doing anything should not be granted the primary right to establish jurisdiction since that could also include States which, for example, were only compelled for a certain amount of time to limit traffic on roads leading to the airport.

68. His delegation had serious doubts regarding the advisability of including draft article 9, according to which the offender would not be extradited if the State in whose territory he was found believed that the offender might be prosecuted "on account of his race, religion, nationality or political opinion". That provision in actual fact meant that a State Party to the Convention would have the right not to discharge an international obligation it had assumed on the basis of its own appraisal of the administration of justice in the other State Party concerned.

/...

69. Miss ORTIZ (Colombia) referring to the four basic issues mentioned in paragraph 13 of the report of the Ad Hoc Committee (A/34/39), observed that the issues referred to in subparagraphs (a) and (b) had been judiciously resolved in the compromise formula embodied in article 12 of the draft Convention, which her delegation supported. With regard to the issue mentioned in subparagraph (d), article 13 contained a solution which met one of the most serious concerns of Member States. Concerning the issue referred to in subparagraph (c), her country, a staunch defender of the right of asylum, was not satisfied with the formula proposed by Working Group I because the scope of its possible application was not defined clearly. Her delegation supported the proposal to replace article 14 of the draft Convention with article 12 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, since that would safeguard the right of asylum, one of the most beneficial achievements of Latin American international law, which was sanctioned by treaties and by State practice. With regard to the preamble and the substantive points discussed in Working Group II, her delegation would participate in the Working Group set up by the Sixth Committee because it felt that the work of that Group would produce positive results.

70. Mr. CHI-AN (China) said that the taking of hostages not only threatened the safety of international civil aviation but also disrupted normal relations between States. His delegation was firmly opposed to terrorist attacks by individuals. Although an international convention was essential to end the taking of hostages, such a convention must respect the sovereignty of States and safeguard national liberation movements, and must also take into account the opinions of all States in order to achieve effective co-operation in that regard. The provisions of the draft Convention must be reasonable and susceptible of implementation in order to command broad international support.

71. His delegation supported the draft Convention in principle. He proposed that article 2 should be reworded to read "Each Contracting State shall take full account of all relevant circumstances of the offences mentioned in article 1 and mete out penalties in accordance with the seriousness of the case." Since international incidents involving the taking of hostages varied in gravity, the proper handling and just and reasonable sentencing would help to prevent and reduce the number of such incidents.

72. Article 13 was very necessary, for mutual respect for the territorial integrity and political independence of States was a generally recognized and extremely important principle of contemporary international law. All countries should strictly abide by that principle in dealing with concrete problems, including that of hostage taking.

73. Since there seemed to be lack of agreement with regard to articles 9 and 14, the interested delegation should hold further consultations in order to reach a satisfactory solution. A convention that could command wide support and be effectively implemented could only be drafted after the opinions of all delegations had been given thorough consideration.

74. Mr. GONZALEZ GALVEZ (Mexico) congratulated the Ad hoc Committee on having completed the draft Convention and expressed confidence that the forthcoming negotiations would lead to a solution of the remaining problems. The issues involved were, of course, complex, since the effort involved altering, albeit for humanitarian reasons, the fundamental rules giving exclusive jurisdiction in the prosecution of an alleged offender to the State in whose territory the offence had been committed. The new trend was due to the transnational nature of certain offences, particularly with regard to their effects; however, the Committee must remember that any international measures adopted must be taken bearing in mind the fact that while the world was clearly one to the extent that what happened in one place had repercussions everywhere, it was nevertheless divided into many sovereignties, each of which claimed the right to decide on all matters concerning it. There was a parallel process of interdependence and independence, and a danger that each might cancel the other out, leading to complete anarchy.

75. Summarizing the position his delegation would take in the forthcoming informal negotiations, he said that the fundamental problem seemed to be to decide whether to convene a conference of plenipotentiaries or whether the Committee, following very positive precedents, should examine the draft with the participation of all Member States. In principle, his delegation did not think it would be satisfactory to use the report of a committee of limited membership as a basis for opening so important a convention for ratification. The validity of many conventions prepared under the auspices of the United Nations had been questioned because of defects in the drafting or adoption procedures.

76. Another problem would be to determine the precise scope of article 12 in the drafting of which his delegation had participated. The article was still very confusing; not only did it add nothing to the draft Convention but it dealt with two completely different legal systems, namely those applicable in cases of armed conflict and those applicable in peacetime.

77. Article 13 contained an important provision and should be studied carefully to determine whether to add at the end specific mention of the intent behind it, namely, that no one could, under the pretext of freeing hostages, violate the provisions of the Charter. It should also be made clear that article 13 covered the threat of the use of force.

78. With regard to article 14, concerning the right of asylum, his delegation wished to explain that the text of the draft Convention wrongly included an absurd proposal which had never been supported by his delegation. The first and second sentences of article 14 were so contradictory that they cancelled each other out. As noted in footnote 18, referring to paragraph 24 of the report of the Ad Hoc Committee (A/34/39), the Mexican and Venezuelan delegations had maintained their special reservations with regard to the second sentence. His Government still supported only the original version, which it had proposed in 1977, reading: "None of the provisions of this Convention shall be interpreted as impairing the right of asylum" (A/AC.188/L.6).



(Mr. Gonzalez Calvez, Mexico)

79. He wished to reiterate his delegation's reasons for submitting that text, which reflected the concerns not only of his country but of a considerable number of States which upheld the validity of the right of asylum even when dealing with such serious offences as the taking of hostages. The right of asylum had saved more lives than all the conventions against terrorism that the United Nations might be able to draft. Asylum in its broadest sense was the protection which a State granted to an individual fleeing from unjust prosecution who sought refuge in the territory of that State or in a place outside its territory which was under its jurisdiction. The right of asylum had been most clearly institutionalized in Latin America, which had adopted several conventions on the subject based on the following precepts: (1) asylum for all victims of political persecution, with no discrimination whatsoever; (2) unilateral determination of delinquency by the State granting asylum, even in the case of "related offences"; and (3) the obligation of the territorial State to grant safe conduct. There were even many cases in which those rules had been applied in the absence of a contractual obligation.

80. His delegation could not accept the argument advanced by the representative of the Netherlands to the effect that asylum should be granted to offenders under the Convention only after the alleged offender's case had been dealt with by the prosecuting authorities in accordance with article 8 of the draft Convention. In Mexico and in the other countries that were parties to conventions on asylum, no one could be prosecuted once asylum had been granted. His delegation did not mean to say that the concept of asylum should be expanded; it believed, however, that the institution was a very special one, based on humanitarian considerations, and might be useful to other regions.

81. Although his delegation had no objection to the substance of article 15, it felt that it should be studied very carefully by those countries that had traditionally upheld the principle that the settlement of international disputes should be optional, since the article provided that one of the parties could refer a dispute to the International Court of Justice.

82. Miss OLIVEROS (Argentina) said that her country, which had co-operated from the outset with the Federal Republic of Germany and other countries in sponsoring the resolutions relating to the drafting of an international convention against the taking of hostages, considered that the draft text before the Committee was juridically acceptable.

83. There should be no difficulty in making the necessary adjustments so that the Convention could be opened for signature. The international community and the United Nations had already shown ample capacity to define situations and adopt the corresponding legislation, as in the case of The Hague, Montreal and New York Conventions which covered a wide range of international unlawful acts. The international community should now proceed further. If the taking of hostages was prohibited in armed conflicts, there was all the more reason to prohibit it in time of peace; the 1949 Geneva Conventions were absolutely unequivocal in that regard.

84. The draft Convention constituted a technically adequate basis, and it was to be hoped that the general support which it had so far enjoyed would be reflected in the Working Group and that what had been achieved would not be negated by procedural arguments from which only the offenders themselves would benefit. Now was the time to put the principles of law into practice.

/...

(Miss Oliveros, Argentina)

85. In conclusion, her delegation felt sure that the Working Group would complete its work successfully, and hoped that, after clarification of a few issues, an acceptable Convention could be opened for signature at the current session of the General Assembly.

86. Mr. ROSENSTOCK (United States of America) said that, in drafting an international convention against the taking of hostages, the Sixth Committee would be making a concrete contribution to the welfare of the international community. The endeavour should be based on the simple perception that the taking of hostages was so heinous a crime that there could be no justification for it whatsoever. The draft Convention should be based on the concept of aut dedere aut judicare and the principles embodied in the Hague and Montreal Conventions. A State should be free to ensure that there would be no safe haven for anyone guilty of taking hostages. The United States, as a State Party to The Hague and Montreal Conventions, wished to caution the Committee against adding any ideas not embodied in those Conventions or in the New York Convention and which might restrict the ability of a State to honour the Universal Declaration of Human Rights or other human rights concepts. The Committee had been working on the draft Convention for several years and its work was almost complete. There was no reason why the draft Convention could not be opened for signature during the current session.

87. With regard to article 13, he pointed out that it was not the province of a convention dealing with the taking of hostages to answer questions concerning Article 2, paragraph 4, of the Charter of the United Nations. That matter should be dealt with in connexion with the discussions on the non-use of force; the draft Convention against the Taking of Hostages should not impinge on those discussions.

88. Mr. ECONOMIDES (Greece) said his delegation believed that international terrorism, especially the taking of hostages, could not be dealt with effectively unless an international instrument on the subject was adopted. Generally speaking, his delegation found the draft Convention satisfactory. The Working Group would be studying the draft as a whole and would undoubtedly make the necessary improvements. For example, it must review some provisions that were poorly drafted, such as article 5, paragraph 1 (b). It should also clarify the meaning of the term "fair treatment" in article 8, paragraph 2; taken in conjunction with the last phrase of that paragraph, "including enjoyment of all the rights and guarantees provided by the law of the country in the territory of which he is present", that term gave the impression that the accused would have a privileged status with respect to other offenders. The Working Group should also study more closely the question of the relationship between the Convention against the Taking of Hostages and other conventions on terrorism.

/...

(Mr. Economides, Greece)

89. He trusted that the Working Group would find satisfactory solutions to all the other unresolved issues and felt that the preamble should not present great difficulties. Article 9 should be considered in close relationship with article 8. Article 14 should be carefully re-examined because the second sentence was not in harmony with the first sentence. His delegation hoped that it would be possible to adopt the Convention during the current session of the General Assembly.

90. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) reaffirmed that the prevention of hostage-taking was part of the general problem of combating international terrorism. For that reason, the inclusion in the preamble to the draft Convention of a provision calling for international co-operation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of hostage-taking as manifestations of international terrorism was essential. That provision should, moreover, be reinforced in the Convention itself. The core of the problem was to define a number of questions relating to international co-operation without interfering in the internal affairs of States. That had been done in articles 1 to 9 of the draft Convention. Furthermore, no other State had the right arbitrarily to establish its jurisdiction over offences which were committed in the territory of a sovereign State simply because the hostage-taker demanded something from the former. Although States were equally interested in being able to defend the interests of their nationals, no State had the right to violate the territorial integrity and sovereignty of another State under the pretext of releasing hostages. Draft article 13 was clear in that regard.

91. The draft Convention should not apply to situations covered by the Geneva Conventions of 1949 for the protection of war victims and the Additional Protocols thereto which prohibited the taking of hostages during armed conflict. Non-compliance with that rule of humanitarian law by the parties to a conflict could not be regarded as a manifestation of international terrorism. It was a violation of the rules governing the conduct of States during armed conflict, and it was his delegation's understanding that the draft Convention would be in force under conditions of peace.

92. With regard to the connexion between the scope of the draft Convention and the activities of national liberation movements, the right of peoples to self-determination and to free themselves from colonial domination and foreign occupation was a fundamental right recognized in the Charter of the United Nations and in other international legal instruments of a universal character, and it was quite rightly reflected in article 12 of the draft Convention. The draft Convention should not be used to the detriment of its main goal, namely the prevention of acts of hostage-taking, which were generally regarded as criminal acts, nor to suppress the national liberation struggle of peoples under the pretext of combating terrorist groups which were not involved in that just struggle.

93. In the Ad Hoc Committee, his delegation had supported the proposal calling upon States to prohibit within and outside their territories the illegal activities of persons, groups and organizations that organized, instigated, encouraged or engaged in the perpetration of acts of taking of hostages. Since certain States practised such illegal activities, the provision would serve to strengthen the preventive effect of the draft Convention.

/...

(Mr. Rassolko, Byelorussian SSR)

94. The draft Convention should not affect the obligations of States arising out of multilateral and bilateral treaties, but should only supplement existing agreements relating to the prevention of international terrorism. His country had played an active role in the drafting of a number of international instruments dealing with international terrorism. Those States which were not yet parties to those instruments should accede to them in order to extend their field of application and make them more effective tools in the prevention of acts of international terrorism, including the taking of hostages.

95. His delegation felt that the inclusion of a reference to the right of asylum would weaken the effect of the draft Convention. The draft Convention treated the taking of hostages as an ordinary criminal act and the granting of the right of asylum to persons who had committed a criminal act would be contrary to its goals.

96. Referring to the positive results achieved by the Ad Hoc Committee in general, he said that much work remained to be done in completing certain draft provisions. The question of the final adoption of the draft Convention could only be decided when the final text had been completed.

97. Mr. VERCELES (Philippines) said that the report of the Ad Hoc Committee was a remarkable result of the constructive and co-operative attitude of the members of the Committee. He stressed the urgency of adopting the Convention during the current session of the General Assembly and said that his delegation would participate actively and constructively in the efforts of the Working Group to find common ground on the problems still outstanding.

98. He wished to touch on a few points of substance in the draft Convention, leaving matters of form to be brought up by his delegation in the Working Group. In article 1, paragraph 1 (b), his delegation would prefer the deletion of the word "international". The word "international" or global, as his delegation understood it, would exclude intergovernmental organizations at the regional or subregional levels as "third parties" within the meaning of the article. His delegation had in mind such regional or subregional intergovernmental organizations as the Organization of African Unity, the European Economic Community, the Association of South-East Asian Nations, the Andean Pact and similar bodies. Again in article 1, paragraph 1, the "act of taking hostages" should be defined or described explicitly as a "grave offence" within the meaning of the Convention. That was necessary and the proper place to make the definition was in the very first article. There was a reference in article 2 to the "grave nature" of the offence, but it did not have an antecedent in article 1.

99. Article 4 contained an injunction to facilitate the departure of the hostage after his release, but the question might be asked: departure for where? There might be instances where the offender came from another State and the hostage resided in, or was a national of, the State where the act of hostage-taking was committed. Should the hostage leave or depart from his own State? Obviously not. His delegation therefore suggested that the last part of article 4 should read "... hostage, in particular, to secure and facilitate his release".

/...

(Mr. Verceles, Philippines)

100. His delegation believed that the mandatory language in article 9 with regard to exemptions from extradition in the cases mentioned weakened the entire draft Convention. Moreover, that mandatory character was derived from a subjective belief of a State, in other words, that State was left the sole prerogative or discretion of determining that the grounds for refusal to extradite were "substantial".

Furthermore, extradition treaties contained a list of categories of extraditable offences and they did not appear to include purported "offences" on account of "race, religion, nationality or political opinion". Indeed, to do so would be contrary to both domestic and international law and to the principles of the United Nations Charter. None the less, his delegation would keep an open mind with regard to article 9 and hoped that a compromise could be reached in the Working Group.

101. His delegation believed that the provisions of article 14 could be further examined. The right of asylum was in any event, well settled in international law and was sufficiently safeguarded in the first sentence of article 14. On the other hand, the second sentence of that article made it clear that the obligations of Contracting States under the Convention should not be affected by the "non-impairment" of the right of asylum in the first sentence.

102. His delegation was gratified that the sensitive questions of national liberation movements and of territorial integrity and political independence of States appeared to have been resolved. Its views on those questions were well known and were reflected in articles 12 and 13, respectively.

103. Mr. MIRCEA (Romania) noted that significant progress had been made in the drafting of an international convention against the taking of hostages. His Government's position in favour of drafting such a convention was based on its adherence to the principle that terrorist acts were inadmissible because, no matter what the problems involved, resort to terrorism could only complicate or hinder their solution. In preventing and combating acts of terrorism, it was also necessary to study the causes of such phenomena with a view to eliminating them.

104. At the same time, it was appropriate to draft legal instruments aimed at encouraging international co-operation against acts that endangered life, international security and relations among States. Such instruments should be acceptable to the great majority of States and there must be assurances that all parties to them would apply them in good faith under all circumstances.

105. Apart from the matters of principle he had just mentioned, considerable work remained to be done on the draft Convention. In the first place, special attention should be given to draft articles 9 and 14, on which no consensus had been reached in the Ad Hoc Committee. His delegation's preliminary position was that the texts in question could weaken the effectiveness of the system of co-operation envisaged in the Convention; it would, however, have further comments on the matter at a later stage. The preamble was also an important part of the draft Convention and should facilitate the interpretation and uniform application of the Convention. It must therefore be carefully studied.

/...

(Mr. Mircea, Romania)

106. The text of the draft Convention should be compared with the texts of existing Conventions in related areas. Some polishing of the draft would also be required. For example, the expression "Contracting State" should be replaced by the expression "State party"; otherwise it might give the impression that the authors of the Convention preferred it not to enter into force.

107. On the question of consultations between countries concerned in situations involving hostage-taking, his delegation believed that any measures to be taken in the territory of a State to secure the release of hostages and to prosecute and punish the guilty parties should remain within the competence and the sovereign right of that State; the exercise of that right must not therefore be made subject to agreement with another State. The absence of consultations could not and should not be an obstacle in situations where it was necessary to take advantage of the most favourable moment to save the lives of hostages. Prior consultation could be carried out on a reciprocal basis whenever possible and within the limits established by the legislation of each State.

108. His delegation was in favour of adopting an international convention against the taking of hostages. At the same time, it felt that it was very important that such a convention should receive the support and general adherence of States and that the principles and rules to be incorporated in the convention should be uniformly applied by all States parties.

The meeting rose at 6.05 p.m.