



SUMMARY RECORD OF THE 23rd MEETING

Chairman: Mr. FRANCIS (Jamaica)

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AGENDA ITEM 128: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (continued)

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The meeting was called to order at 10.35 a.m.

AGENDA ITEM 128: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (continued) (A/41/547 and Add.1 and 2, A/41/354, A/41/656-S/18366; A/C.6/41/3)

1. Mr. MARTINEZ GONDRA (Argentina) said his delegation had noted with alarm that, as evident from the reports received from States pursuant to paragraph 9 of General Assembly resolution 40/73, the means used by the perpetrators of attacks on diplomatic and consular representatives and other internationally protected persons had become increasingly violent and were taking lives indiscriminately. It was highly encouraging, however, that in many of the reported cases, the criminals had been arrested, brought to justice and duly sentenced.
2. Co-operation between States should be increased in order to improve measures aimed at preventing the repetition of terrorist acts. The States which apprehended the criminals should bring them to trial or, where applicable, extradite them. In no case should the crimes remain unpunished.
3. The adoption of domestic and international measures to discourage, prevent and punish terrorist acts was essential. However, all governmental measures should respect the sovereignty and integrity of other States, as well as other principles of international law.
4. His delegation had noted with interest, in section II.B of the Secretary-General's report (A/41/547), the ideas expressed by Canada, in particular with regard to the preparation of a form embodying the relevant questions to be answered by States in their reports. However, at the current stage it would be going too far to accept Canada's suggestion that the Secretary-General should request each State that was not a party to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents to describe whatever obstacles might be preventing ratification of or accession to the Convention, although it was in the interest of the international community that the greatest possible number of States should ratify or accede to it. He pointed out that Argentina had ratified that Convention as well as the 1961 and 1963 Vienna Conventions.
5. The question of the protection, security and safety of personnel of international organizations was also of great interest to the international community. His delegation therefore supported the Secretary-General's decision to treat the reports concerning serious acts of violence against international organizations or their personnel in the same way as those relating to diplomatic and consular missions and representatives.
6. His delegation drew attention to the statement in the annex to document A/41/547 that many violations remained unreported and that the picture derived from the reports of the Secretary-General was a fragmentary one. It supported the

(Mr. Martinez Gondra, Argentina)

suggestion, therefore, that the Secretary-General should send a circular note to all States requesting them to indicate whether they had any violations to report for the preceding 12 months.

7. The problem of the protection, security and safety of diplomatic and consular missions and representatives was one aspect of a broader problem, namely, the improvement of international relations. That broader problem would not be solved merely by taking measures to protect missions and representatives. States should refrain from introducing obstacles, whether administrative or legislative, to the work of diplomatic missions and representatives. Moreover, they should try to explain to their citizens the functions of those representatives in order to encourage a favourable environment for the achievement of their objectives. Of course, diplomatic and consular representatives should also carry out their functions in a responsible manner.

8. His delegation welcomed the Nordic countries' intention to submit a draft resolution reaffirming the need for co-operation in enhancing the protection, security and safety of diplomatic and consular missions and representatives. Argentina would like to join in sponsoring it.

9. Mr. YIMER (Ethiopia) stressed the importance and universality of the Vienna Convention on Diplomatic Relations and drew particular attention to articles 22, 29, 30, 44 and 45. The position in international law was clear, but the reality was different, hardly a year passing without violations of the protection, security and safety of diplomatic and consular missions and representatives. The latest report of the Secretary-General (A/41/547 and Add.1 and 2) testified to that sad state of affairs. It would not be an exaggeration to say that as diplomatic agents increasingly became targets of physical attack, the diplomatic profession was becoming hazardous.

10. In order to reverse or at least halt that trend, States should do their utmost to enhance the protection, security and safety of diplomatic and consular missions and representatives. That could be done by a variety of means, including scrupulous observance of the relevant Vienna Conventions and other international instruments, co-operation between States in combating hostile acts against diplomatic agents, and domestic legislation designed to facilitate the implementation of international law. His country, as host to numerous diplomatic missions and many branches of international organizations, had enacted, long before the Vienna Conventions, adequate penal provisions for the protection and safety of diplomatic missions. He referred, for example, to articles 273 to 280 of the Ethiopian Penal Code of 1957.

11. The survey of the operation of the reporting procedures (A/41/547, annex), prepared by the Secretary-General in accordance with paragraph 13 of General Assembly resolution 40/73, was the most important and revealing part of the report. His delegation agreed with the view expressed in paragraph 5 of the annex that many violations remained unreported, and welcomed the suggestion to enhance comprehensiveness. Future resolutions on the item under consideration might contain a provision to that effect.

(Mr. Yimer, Ethiopia)

12. It was encouraging to note that, as stated in paragraph 8 of the annex, violations had generally been reported in dispassionate terms and that, with a few exceptions, the States concerned had refrained from engaging in polemics. His delegation agreed with the view expressed in paragraph 11 that a way of further strengthening the reporting procedures would be for the Secretary-General to address reminders to the State where a violation had occurred if no follow-up report had been forthcoming from that State within a given period of time. The suggestions reproduced in section II.B of its communication submitted by Canada in paragraphs 2 (c) and 3 (c) of the report were also worth considering.

13. With regard to the question of abuse of diplomatic privileges and immunities, a serious problem giving rise to justifiable concern, his delegation fully agreed with the view expressed by Denmark in section II.B of the report that while sending States were entitled to expect the best possible protection of their representatives, the duty, under international law, of diplomatic and consular representatives to respect the laws and regulations of the receiving States must also be recognized.

14. He reiterated his delegation's view that the item should be kept under regular review by the General Assembly. Together with the continuation of the reporting procedures, annual consideration of the issue would keep public awareness alive, thus avoiding complacency and contributing to the enhancement of the protection, security and safety of diplomatic and consular missions and representatives.

15. Ms. XUE Hanqin (China) said that since its inclusion in the agenda of the thirty-fifth session, the current item had been discussed regularly and some practical results had been achieved. The reporting procedures were being extensively applied and had gradually become part of a system which helped to enhance protection. The principle of inviolability of diplomatic and consular missions and representatives was very important for the maintenance of normal international relations and the promotion of mutual understanding, friendship and co-operation among States. The frequent serious violations of the principle not only hindered normal exchanges between States, but also had a direct impact on international peace and security. The report of the Secretary-General (A/41/547 and Add.1 and 2) demonstrated the urgency of the problem. Her Government strongly condemned all criminal acts of violence against diplomatic and consular missions and representatives, believed that the international community should adopt effective measures to prevent the recurrence of such incidents, and endorsed the efforts made towards that end by the relevant United Nations bodies.

16. Prominence should be given to the role of such international instruments as the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the Conventions on privileges and immunities, and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. More countries should be prevailed upon to ratify and accede to those instruments, and countries which had already done so should strictly abide by their provisions. Moreover, each country should adopt effective measures, including enactment of the necessary national legislation, to enhance the protection of diplomatic and consular missions and representatives.

(Ms. Xue Hanqin, China)

17. Her delegation endorsed the continuing consideration of the item on a regular basis, with the proviso that discussion should focus on the effective implementation of measures and should not become a formality.

18. Of the two aspects of international co-operation in the matter, namely, punishment and prevention, the latter was often the more important and beneficial. The present reporting procedures were helpful to international co-operation in that regard. Her delegation appreciated the constructive Canadian proposals reproduced in section II.B of the report.

19. In trying to protect diplomatic and consular missions and representatives and to punish acts of violence, countries, whether acting singly or in co-operation with others, must of course strictly abide by the Charter of the United Nations and international law. Encroaching upon the sovereignty of States or interfering in their internal affairs could not be permitted. At the same time, diplomatic and consular representatives should perform their functions in good faith and should respect the laws of the receiving State, the sending State being under an obligation to prevent any abuse of privileges and immunities by its diplomatic and consular representatives.

20. Her Government had been consistent in establishing friendly relations with other countries on the basis of the principle of peaceful coexistence, and had always adopted a positive attitude with regard to the security of diplomatic and consular missions and representatives, as well as that of the offices and representatives of international organizations. China was a party to the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Conventions on privileges and immunities, and was currently considering accession to other relevant instruments. Internal legislation was gradually being formulated or improved; for example, the Regulations on Diplomatic Privileges and Immunities of the People's Republic of China had been adopted on 5 September 1986, and various government agencies were adopting effective administrative and technical measures with a view to enhancing the protection, security and safety of diplomatic and consular missions and representatives.

21. Mr. SUESS (German Democratic Republic) stressed the importance his Government attached to the work of diplomatic and consular missions and representatives, whose role and tasks were likely to increase further in view of the unabated deterioration of the international situation resulting from the policies of certain Western States. The Secretary-General's latest report demonstrated once again the significance of the topic and the need for it to be considered in the Sixth Committee. The numerous grave violations of the protection, security and safety of diplomatic and consular missions and representatives, and other missions and representatives accredited to States or international organizations, gave grounds for deep concern. His Government was resolutely opposed to any form of international terrorism and violence, and categorically condemned any form of attack on diplomatic and consular missions, government missions to international organizations, or officials of such organizations. Such acts of violence, whatever the reasons given, were unjustifiable.

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(Mr. Suess, German
Democratic Republic)

22. His delegation agreed that the solution of the problem depended on the fulfilment by all States of their obligations under international law, and necessitated international co-operation and exchanges of experience. The German Democratic Republic was ready to engage in such co-operation and would continue to make every effort to prevent acts of violence in its territory. At the same time, he wished to voice deep disquiet over the fact that, in some cases, such acts had obviously been encouraged by the inconsistent approach taken by some receiving or sending States.

23. His country considered that the best way to enhance the protection, security and safety of foreign governmental missions and representatives was to ratify or accede to the relevant international conventions and to apply them in an effective and consistent manner. Failure by a State to honour its international legal obligations gave rise to responsibility under international law, including liability for any damage caused. His Government would like to see that principle, which derived from generally recognized international law, adequately reflected in the draft resolution to be prepared on the item under consideration.

24. Since the focus of the topic was on the basic international legal obligations contracted by States in respect of all governmental missions and representatives, the allegation that there was overlapping between the work being done in the Sixth Committee and the Committee on Relations with the Host Country was, in his view, invalid. Instead of a general reference to the "instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives", as in paragraph 7 of General Assembly resolution 40/73, his delegation would, for the sake of greater clarity, like the draft resolution on the item to contain an explicit reference to the relevant conventions, namely, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. Although the latter instrument had not yet entered into force, it documented the view of a majority of States on the question of the protection, security and safety of governmental missions accredited to international organizations. His delegation would be prepared to submit a corresponding proposal for the draft resolution.

25. While condemning the abuse of diplomatic privileges and immunities, his delegation vehemently deprecated the attempts made by some States to use the pretext of veiled abuse and apply discriminatory measures which were in defiance of international law, in order to impede or restrict the work of representatives of other States.

26. Mr. DJOKIC (Yugoslavia) said that the report of the Secretary-General (A/41/547 and Add.) and 2) bore out the conclusion that a positive development had taken place in the consideration of the item over the past few years. Particularly important in that connection was the survey of the operation of the reporting

(Mr. Djokic, Yugoslavia)

procedures, which confirmed once again the usefulness of the procedures and of the initiative originally taken by the Nordic countries in requesting inclusion of the item in the agenda.

27. Despite considerable efforts by the United Nations and its Member States to enhance the protection of diplomatic and consular missions and representatives, the situation was still far from satisfactory. The Governments of receiving States should be even more active in preventing terrorist acts against diplomatic and consular missions and representatives in their territory, and the international community should make every effort to put an end to such acts. Unfortunately, double standards were sometimes applied and terrorist activity conveniently interpreted as political. In his Government's opinion, that was unacceptable; terrorism, regardless of interpretation, could not be justified. At the same time, the struggle of peoples and their liberation movements for freedom and independence, being the very negation of terrorism, violence and enslavement, could on no account be subsumed under terrorism. That was the view expressed by the General Assembly in its resolutions reaffirming the inalienable right to self-determination and independence of all peoples under colonial and racist régimes and other forms of alien domination, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements.

28. His country's diplomatic and consular missions and representatives had been victims of terrorist attacks, often with tragic consequences. Yugoslavia was actively striving, both bilaterally and multilaterally, for the regulation of diplomatic and consular relations in international law, and for the protection of diplomatic and consular missions and representatives. It had supported the regular consideration of the matter in the Sixth Committee, regarding that practice as a useful supplement to existing international agreements. Two questions still remained, however: how to make more effective use of the available mechanisms and what measures to take in order to prevent terrorist acts against diplomatic and consular missions and representatives. A first answer would seem to lie in the consistent observance by all States of existing international conventions on the subject. Imposition of stiffer penalties under national legislation for crimes against diplomatic and consular missions and representatives could also have a positive impact. However, not even the most perfect legal system could ensure the desired results unless, in addition to punitive measures, preventive measures were also taken, it being understood that preventive measures taken by one side alone were unlikely to be successful.

29. Great responsibility lay upon the host country, whose duty it was to take all necessary measures, particularly in connection with organizations, groups and individuals that, taking advantage of so-called political freedoms, committed terrorist acts against diplomatic and consular missions and representatives, thereby undermining friendly relations among States. States must take specific action to prohibit in their territories such illegal activities.

30. Another important aspect of the problem was the readiness of diplomatic or consular missions to co-operate and exchange information with the host country.

(Mr. Djokic, Yugoslavia)

There could be no doubt that co-operation in that area, developed on the basis of confidence, would help to reduce the number of terrorist acts against diplomatic and consular missions and representatives, thus enabling diplomats to carry out their duties without fear of terrorist acts.

31. Preventive measures were also effectively supplemented by the reporting procedure, which had proved useful in the past and should be maintained and strengthened in the future. The Committee should continue to study the essence of the problem and seek solutions likely to lead to the early adoption of effective measures, giving due attention to the various constructive proposals made during the debate.

32. Mr. ROMPANI (Uruguay) said that General Assembly resolution 40/73 embodied a series of principles which could constitute the basis for a treaty or convention on the item under consideration. Rarely had such a strong consensus been achieved on a resolution. He noted that Uruguay had acceded to all the relevant conventions which had provided the background for the resolution, which also referred to representatives to intergovernmental organizations.

33. A diplomatic or consular mission was a sort of microcosm of the country which it represented, and an attack on its mission or representative was therefore tantamount to an attack on the country itself. A legal fiction, namely that of extraterritoriality, was behind that concept. That traditional principle of extraterritoriality was necessarily complemented by the principle of inviolability. The item under consideration could not be considered in isolation, therefore, but rather must be dealt with on the basis of its relationship with other items, such as host country relations, the diplomatic courier, and State responsibility. The legal order must be a coherent and non-contradictory whole, and its rules should be complementary and hierarchical. His delegation therefore attached great importance to the report of the International Law Commission, in that some of the concepts with which it dealt were inevitably linked to the item under consideration. He drew attention to the Commission's analysis of many of the points under consideration, such as the concepts of "mission", "State immunity" and "terrorist acts". Whatever position the Sixth Committee took with regard to those points, it was obvious that they should be considered as a whole.

34. His delegation noted with interest Denmark's observations and Canada's suggestions in particular those contained in paragraphs 1 (a) and 3 (b) of its communication reproduced in section II.B of the report (A/41/547).

35. Mr. KAKOLECKI (Poland) said that the importance of the efficient and undisturbed performance of diplomatic and consular activities for the promotion of friendly relations among States was unquestionable. There was also an urgent need to enhance the protection, security and safety of diplomatic and consular representatives, for serious crimes against diplomats continued to occur, and their perpetrators too frequently were unpunished or received disproportionately mild sentences. Unfortunately, the well-developed system of international diplomatic law and the relevant General Assembly resolutions had not been sufficiently

(Mr. Kakolecki, Poland)

implemented. Moreover, the information media had not always fostered understanding of the activities and role of diplomatic missions. On the contrary, they had sometimes even inspired or strengthened prejudices and provoked hostility against representatives of certain States.

36. He pointed out that 1986 marked the twenty-fifth anniversary of the Vienna Convention on Diplomatic Relations. Regrettably, unilateral discriminatory restrictions had recently been applied to some missions to the United Nations. Such restrictions were hardly compatible with that Convention and customary international law, and could not only hamper the efficient performance of diplomatic functions, but also lead to the worsening of the international climate. In such circumstances, the enhancement of the protection of diplomatic and consular missions and representatives continued to be a vital question.

37. General Assembly resolution 40/73 expressed the unanimous position of the international community in that regard. What was needed was the political will to observe and fulfil international obligations and to improve co-operation between sending and receiving States. In addition, there was a need to disseminate proper information about the role of diplomats in international relations. An atmosphere of respect for and understanding of the work of diplomatic missions would contribute to their better and safer functioning.

38. His delegation reaffirmed its support for the reporting procedures, which had played a positive role since 1980 in monitoring the protection of foreign missions. In that regard, the suggestions contained in paragraph 12 of the annex to the Secretary-General's report (A/41/547) concerning the strengthening of reporting procedures deserved endorsement. A systematic compilation of the measures taken by States to prevent the repetition of violations, as well as of their suggestions regarding practical means to enhance diplomatic protection, would be useful. Moreover, the suggestions put forward by Canada, Turkey and other States were highly interesting and deserved further examination.

39. Mr. EDWARDS (United Kingdom), speaking on behalf of the 12 States members of the European Community, said that it was not possible to take much comfort from the 1985 figures concerning attacks on diplomats and their missions, as set out by the Secretary-General in his report, since many incidents remained unreported. Such attacks endangered international relations by harming the very people whose task it was to work for harmonious and peaceful relations between States. The Twelve believed that current international conventions provided adequate means to ensure the protection, security and safety of diplomatic and consular missions and representatives. All States parties to the relevant conventions must comply with their obligations, and States not parties to those conventions should seriously consider acceding to them. The Twelve also recognized the potential danger of abuses of diplomatic and consular privileges and immunities, which damaged the credibility of those who were entitled to them and who were required to respect the laws and regulations of the receiving State.

(Mr. Edwards, United Kingdom)

40. With regard to States' reports to the Secretary-General pursuant to paragraph 9 of General Assembly resolution 40/73, the Twelve stressed that whenever a State reported serious violations of the protection, security and safety of diplomatic and consular missions and representatives, such reports should contain only facts which had previously been made available to the State where the violations had taken place, or facts which were generally available through other channels. In addition, States' reports should refer only to serious violations, particularly those which might endanger the normal conduct of relations between States. Reports containing criticism of a State should be submitted to the Secretary-General well before the drafting of his report to enable the State criticized to have its reply included in the report, thus giving it more balance. The Twelve also pointed out that incidents which fell within the competence of the Committee on Relations with the Host Country should not be dealt with in extenso under the agenda item under consideration.

41. As to the Secretary-General's suggestions, the Twelve saw value in States making an annual report to him even when no violations had occurred. The Twelve also attached great importance to the follow-up reports referred to in paragraph 11 of the annex to the Secretary-General's report. They proposed that his annual report should contain a separate paragraph on the status of follow-up reports.

42. The Twelve noted that the Secretary-General continued to include in his reports information received from States concerning violence against the premises and personnel of international organizations. That type of violence presented some different problems requiring careful study, perhaps under the agenda item dealing with respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations. The Twelve had doubts about the desirability of the establishment of a systematic compilation of practical measures to enhance the protection, security and safety of diplomatic and consular missions and representatives. While co-operation in that field could prove useful, the Twelve doubted whether a very broad framework would be appropriate for that type of activity, given that such measures were best kept confidential if they were to be effective.

43. The Twelve would co-operate with the other members of the Committee in drawing up a resolution reflecting the consensus achieved on the Secretary-General's ideas and on other suggestions made. They expressed appreciation that paragraph 13 of General Assembly resolution 40/73 had led to constructive proposals for improving reporting procedures.

The meeting rose at 11.55 a.m.