

United Nations  
**GENERAL  
ASSEMBLY**

THIRTY-FOURTH SESSION

*Official Records \**



SIXTH COMMITTEE  
14th meeting  
held on  
Wednesday, 10 October 1979  
at 10 a.m.  
New York

---

SUMMARY RECORD OF THE 14th MEETING

Chairman: Mr. ZEHENTNER (Federal Republic of Germany)

CONTENTS

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)

ORGANIZATION OF WORK

---

\* 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.

The meeting was called to order at 10.15 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. LU DINH VE (Viet Nam) noted with satisfaction that the Ad Hoc Committee had taken into account the view put forward by many delegations, that the proposed Convention should not apply to armed conflicts in which peoples were fighting against colonial domination, alien occupation, apartheid and racist régimes in the exercise of their right of self-determination. His delegation had already referred in the General Assembly to the appearance of a new criminal phenomenon, the taking of hostages en masse, which threatened the lives of peoples and international peace and security. During the General Assembly's thirty-third session, his delegation had proposed that it should be defined as "the act of capturing, detaining, and displacing under threat of death or extermination an entire group or community, in order to force the oppressed people to renounce the exercise of their inalienable right to self-determination and their struggle against colonialism, racism, apartheid, zionism and foreign domination and occupation". He would submit the draft definition to the Ad Hoc Committee for its consideration at a later stage.
2. Mr. PIRIS (France) said that his country had declared both in the General Assembly and in the Ad Hoc Committee, the great importance which it attributed to the taking of hostages. Faced by the proliferation of such acts, the international community should unequivocally condemn them without exception, whether or not they were carried out as acts of terrorism, in time of peace or war, and regardless of the cause in the name of which they were perpetrated.
3. Although France had played an active part in the preparation of the draft Convention, his delegation could not join in the consensus which the Ad Hoc Committee had reached during its last session. The draft Convention's provisions had not been fully worked out. France had reservations about some of them and considered that others could be improved. His delegation could not be party, even provisionally, to any consensus on a draft which was not complete and which did not eliminate all possible omissions, uncertainties or ambiguities. His delegation would spare no effort to arrive at a text which was satisfactory to all.
4. Mr. ARNOUSS (Syrian Arab Republic) recalled that his delegation had participated fully in the preparation of the draft Convention.
5. He considered that the Ad Hoc Committee's text took full account of the legitimate struggles of peoples against colonial domination, alien occupation and racist régimes, which were a reality in today's world.
6. With regard to those items on which there was no clear consensus, Syria would co-operate in the efforts needed to complete the work. He considered that Jordan's proposal on article 9 of the draft was essential to ensure a humanitarian spirit, in accordance with the objectives of the Charter. His delegation would elaborate its points of view in the Working Group.

/...

(Mr. Arnouss, Syrian Arab Republic)

7. Articles 13 and 14 of the draft required further work to eliminate ambiguity. He was optimistic about the application of the relevant provisions on the extradition and prosecution of hostage-takers.

8. Mr. ROSENNE (Israel) said that the General Assembly had reacted positively to the serious problems posed by the taking of hostages. They affected more than one State and nationals of several States simultaneously. No person nor country was immune. Israel was glad that the resolutions on the topic had been adopted by consensus, which it regarded as a happy omen for the Committee's work.

9. The yardstick by which the draft Convention was to be measured and which should serve as a guideline in the preparation of its definitive wording, was that set forth in the memorandum on the matter presented during the General Assembly's thirty-first session (A/31/242), and in General Assembly resolution 31/103. Some of the elements appearing in those two documents, along with the clauses suggested by the Ad Hoc Committee, should be incorporated in the preamble to the draft Convention. It would also be useful if the preamble contained some of the ideas found in the preamble to the 1973 Convention on the Prevention of Crimes against Internationally Protected Persons, including Diplomatic Agents, as well as the commonly found phrase on the usual application of customary international law. Whether such a preambular clause were included or not, his delegation had never accepted the position that there was a void in customary international law, since it was in the nature of law itself to prohibit the taking of hostages and the law allowed victimized States to take all necessary actions of self-defence, according to the circumstances.

10. Israel had reservations about the current wording of article 9 (c) of the draft Convention. Nevertheless, in any appropriate case in which Israel might find it necessary to request extradition under the terms of the Convention, the rights of communication of the extradited person as envisaged in that clause would be respected. The inclusion of a properly drafted clause along those lines would, therefore, cause his delegation no difficulties.

11. Yet his delegation had considerable difficulty over article 12, especially paragraph 1, principally because of the obscurity of its language and the fact that it gave rise to the delicate problem of the interrelationship of treaties, and the relativity of treaties, having different parties and dealing with different subject matters. The commentary in paragraphs 16 to 20 of the Ad Hoc Committee's report (A/34/39) did not assist in clarifying the topic. One source of difficulty was the specific reference to article 1, paragraph 4, of the Additional Protocol No. 1 of 1977, which was itself ambiguous. He wished to reserve his delegation's final position until the fruits of the Working Group's labours could be seen. The

/...

(Mr. Rosenne, Israel)

important thing was that article 12 should not provide a loop-hole through which hostage-takers and States giving them refuge would be able to evade the basic principle of "prosecute or extradite".

12. Mr. QUATEEN (Libyan Arab Jamahiriya) welcomed the Ad Hoc Committee's positive achievements aimed at drafting effective measures to end the taking of hostages. In drawing up the draft Convention, the Committee had discharged the heavy responsibility placed upon it by the international community. He trusted that that draft would be adopted during the General Assembly's current session.

13. Those matters still to be settled by the Committee were insignificant in comparison with the already resolved complex and delicate problems of national liberation movements, and of respect for the principles of sovereignty and the territorial integrity of States with regard to the release of hostages. Prolonged consultation had led to a formula acceptable to all, which had facilitated the solution of less important matters. Nevertheless, the matters relating to the Convention's preamble, extradition and the right of asylum were still unresolved.

14. There was no real controversy about the preamble; it was merely that lack of time had made it impossible to complete the drafting. Consequently, the Working Group could begin its work immediately on that text.

15. As to extradition, the Jordanian text included in square brackets in the draft Convention was the most logical and that most appropriate to the aim in view. The Convention must have the force of law in international society, and the consideration that should guide those who drafted it, in their capacity as lawyers, was to serve justice and not to satisfy selfish interests.

16. Turning to the right of asylum, he said that any crimes involving hostage-taking covered by the definition of article 1 - except as provided in article 12 - imposed on the State concerned the obligation to prosecute or extradite the alleged offender. Nobody opposed the idea that the State concerned should institute proceedings in accordance with its legislation. In cases where extradition was requested, article 10, paragraph 1, would apply, unless the case concerned was one of those envisaged in the text proposed by Jordan. If so, the State that did not grant extradition should take a decision on the question of prosecuting the alleged offender in accordance with its domestic law, so that in that case also the right of asylum was not affected. When the matter was not one of hostage-taking, but of a political offence, no provision in the draft Convention conflicted with the right of asylum. Consequently article 14 should raise no problems, since the text was merely explanatory, and perhaps even superfluous.

17. Mr. HERNDL (Austria) welcomed the Ad Hoc Committee's solid and balanced report on the drafting of an international Convention against the taking of hostages. The Committee had finally arrived at a meeting of minds which seemed to indicate that the joint efforts to protect innocent people by curbing and stamping out that odious phenomenon were close to achieving their goal. Austria had supported all the efforts of the international community, in particular those of the United Nations, to fight international terrorism and such side effects as the taking of hostages. Only international action could control such activities, which did not stop at national borders but deliberately sought to escape national jurisdiction by involving a number of States in each action.

18. The draft Convention prepared by the Ad Hoc Committee was the result of a consensus. Although there were exceptions to that consensus - notably articles 9 and 14 - the draft text represented a great step forward, and the balance achieved in the Ad Hoc Committee must not be upset. His delegation thought well of the general results of the Committee's work. However, he wished to comment on certain provisions of the draft that he would have liked to see worded differently.

19. In article 1, Austria would have preferred the definition of the act of hostage-taking to have contained a reference to the means by which the act was committed, in other words, the use of force, the threat of force, deception, or other means. However, his delegation was prepared to accept the definition in its present wording, since it covered all the essential elements.

20. It was regretted that in article 2 it was not specified, as it had been in earlier versions, that States should impose severe penalties for the offence of hostage-taking. In providing that each contracting State should impose appropriate penalties which took into account the grave nature of the offence, the Ad Hoc Committee had followed the example of the 1973 New York Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, but it had ignored the precedents of the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. His delegation stated unequivocally that, as the offences defined in article 1 were of the most serious nature, States had the obligation under article 2 to apply adequate punishment, in other words, a severe penalty.

21. Article 5 should have referred to related offences. His delegation, bearing in mind the debate on that question in the Ad Hoc Committee, would not press that point, but wished to emphasize that, as indicated in its statement in 1978, it fully shared the view of the representative of the Netherlands, who had proposed that the provision should include an appropriate mention of "any other serious act of violence committed in connexion with such offences by the alleged offender against the hostage causing death or bodily injury".

(Mr. Herndl, Austria)

22. There appeared to be no justification for the limitation established in article 5, paragraph 1 (d), which provided that for the offences set forth in article 1 the State of which the hostage was a national should have jurisdiction, if that State considered it appropriate. That provision could create situations where a double standard was applied, which should be avoided.

23. In article 12 his delegation would have preferred the wording used in paragraph 21 of the Ad Hoc Committee's previous report (A/33/39).

24. His delegation understood the attitude of the delegations that had proposed articles 9 and 14, but considered that careful thought should be given to those questions. It was to be hoped that the Working Group would arrive at a solution acceptable to all.

25. In conclusion he said that the draft Convention was an acceptable compromise and contained texts with which Austria was essentially in agreement. Although it could be improved, it provided a solid basis for the Working Group and the Sixth Committee, and every effort should be made to complete the Convention during the current session of the General Assembly. Thus an appropriate instrument would have been provided for effective international co-operation to curb the taking of hostages.

26. Mr. DROUSHIOTIS (Cyprus) said he was gratified that the Ad Hoc Committee had successfully completed its work on the preparation of a draft international Convention against the taking of hostages. The Ad Hoc Committee had succeeded in finding satisfactory solutions to a number of problems, in particular those relating to the scope of the Convention and the question of national liberation movements. If it had had more time it would also have been able to find an appropriate solution to the question of extradition and the right of asylum.

27. The text of article 9 of the draft Convention proposed by Jordan listed reasons for refusing extradition. Those reasons were established in legal systems and should pose no difficulty for the various delegations, since the proposal did not lessen the effectiveness of the draft Convention. Although his delegation supported article 9 in its present wording, it accepted that the Working Group might suggest changes in order to secure general agreement. He must point out that the Constitution of Cyprus prohibited the extradition of its nationals. Similarly, Cyprus exercised extraterritorial jurisdiction with respect to serious crimes committed by its nationals.

28. His delegation also supported article 14, since the right of asylum, which was well established in international law, should be properly reflected in the Convention.

29. Lastly, he expressed the hope that the Working Group could solve the remaining questions in the spirit of compromise and goodwill that had predominated in the Ad Hoc Committee, so that the General Assembly could adopt the Convention at its current session.

30. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) said that the Ad Hoc Committee had done remarkable work in completing the draft Convention on the taking of hostages, which would help to resolve one of the main elements of the over-all problem of international terrorism. He reiterated his firm opposition to acts of international terrorism, which served no positive purpose and endangered the lives of innocent people. Although his country was prepared to join in international co-operation to prevent and punish such acts, it believed that the main responsibility in that area rested with individual States, under the terms of their domestic law. States must not allow, still less encourage or support, the perpetration of terrorist acts in other countries, or within their own territory against foreigners.

31. The Convention which the Committee ultimately adopted must include very clear provisions prohibiting States from using acts such as the taking of hostages to further their policies and imposing on them the obligation to define such acts as offences and to punish the authors severely.

32. Unfortunately, article 2 of the draft Convention departed from the precedents set by the Conventions of The Hague and Montreal, which imposed on States the obligation to introduce severe penalties for the offences envisaged therein. Instead, that article contained a weaker formulation and only provided for "appropriate" penalties. That article should take the facts of the situation into account and reaffirm what had already been achieved in that area rather than weaken the provisions of existing instruments. The Convention must be based on the mandatory application of severe penalties in all cases of the taking of hostages.

33. As for the need to develop 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 the international terrorism, he believed that the relevant provision should be included in an article of the Convention and not in its preamble.

34. With the foregoing reservations, his delegation supported the definition of the taking of hostages since it covered all the essential elements of that offence. He particularly welcomed the provision that the Convention would not apply where the offence was committed within a single State, where the hostage and alleged offender were nationals of that State and where the alleged offender was found in the territory of that State (art. 12, para. 2). That rule respected the sovereignty of States and the principle of non-interference in their internal affairs.

35. With regard to the national liberation movements, after a lengthy discussion a compromise formulation (art. 12, para. 1) had been arrived at to the effect that the Convention would not be invoked against those movements. That provision was in conformity with the numerous United Nations decisions recognizing the legitimacy of the struggle of national liberation movements.

36. His delegation was also in full agreement with articles 13 and 3 of the draft Convention. Article 3 was needed because of the campaign of violence and extortion waged in many countries by organizations and groups which sometimes enjoyed the protection of the official authorities of those countries.

(Mr. Stepanov, Ukrainian SSR)

37. The Ad Hoc Committee had not reached agreement on the articles relating to extradition and asylum. Given the seriousness of the offence of hostage-taking, the right of asylum should not be invoked under any circumstances and its inclusion in the final text of articles 9 and 14 would weaken the Convention vis-à-vis other existing treaties which did not allow for exceptions. The wording of article 9 in particular would enable some States to evade their responsibilities.

38. Mr. MICKIEWICZ (Poland) said that the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages had worked effectively, considering the extreme complexity of the political, social and legal problems of the contemporary world.

39. The taking of hostages was not a political crime, but a form of common crime. The idea of inserting into the draft Convention an article on the institution of political asylum therefore seemed inappropriate and unjustified.

40. Furthermore, although the Polish delegation to the Ad Hoc Committee had, in a spirit of compromise, joined the consensus on the principle of "extradite or prosecute", it was convinced that the most effective way of discouraging prospective perpetrators from committing acts of hostage-taking was to face them with the prospect that they would be extradited to the State in whose territory, ship or aircraft the act had been committed. In the view of his country, that was not only a theoretical but also a practical issue, given the recent case of Hans Dietrich Tiede, in which the measures taken by the administrative and judicial authorities of West Berlin had been extremely unjust and contrary to the very spirit of the future Convention. The Polish request for extradition of Hans Tiede, who had been guilty of hijacking an aircraft by armed force, had been rejected and he had been sentenced to a mere nine months' imprisonment for the taking of a hostage. That was a clear example of how the principle of "extradite or prosecute" could be used against the general will of States to take effective measures to prevent, prosecute and punish all acts of hostage-taking as manifestations of international terrorism.

41. He wished to draw attention to the situation resulting from the disparity between the international legal rules which States undertook to observe and States' practical attitude towards the implementation of such rules. The provisions of the draft Convention which the Committee had before it must under no circumstances sanction the double standard adopted by some Governments with regard to combating the taking of hostages.

42. Without prejudice to the above comments, his delegation supported in principle the Ad Hoc Committee's report as a good basis for future deliberations in the Working Group.

43. Mr. GANA (Tunisia) said that the taking of hostages was one of the most abhorrent forms of international terrorism and infringed the individual rights



(Mr. Gana, Tunisia)

guaranteed by the United Nations Charter and by other international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. It also undermined the foundations of peace and justice and relations of friendship and co-operation among States. His delegation was prepared therefore to support all measures designed to prevent and punish hostage-taking.

44. He reminded the Committee that a great deal of work had already been done on the question, as was evident from the Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949, the Tokyo Convention of 1963, the Hague Convention of 1970, the Montreal Convention of 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed in New York in 1973, and resolution 2645 (XXV), in which the General Assembly had condemned aerial hijacking or interference with civil air travel. In any case, injustices, dangerous inequalities and other causes of tension still remained as a consequence of the continued existence of colonialism, hegemonism, racial discrimination, hunger and poverty, which drove individuals and peoples to sacrifice human lives in an effort to re-establish right and justice. States must therefore show greater resolution in their co-operative effort to achieve the complete elimination of the underlying causes of acts of terrorism and the taking of hostages.

45. The solution to those problems must necessarily be general in character and must depend on the political will of States and on the evolution of international policy. That involved a long-term process, and his delegation was prepared to accept a partial solution such as that proposed in the report of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages. Articles 12 and 13 of the draft Convention, which enshrined the right of national liberation movements to fight for their independence in the face of alien occupation and racist régimes on the one hand and, on the other, showed respect for the territorial integrity and independence of States, represented a considerable step forward, consistent with the United Nations Charter and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States.

46. Finally, his delegation would make its contribution to the Working Group's article-by-article examination of those questions which required further study, including those relating to the preamble, to the definition of hostage-taking and to the extradition procedure and, in principle, gave its over-all support to the draft Convention prepared by the Ad Hoc Committee.

47. Mr. FATHALAH (Egypt) said that, given the complexity of the item under consideration, the Ad Hoc Committee for the Drafting of an International Convention against the Taking of Hostages had made considerable progress and, thanks to the spirit of compromise which had prevailed, had drafted a text which, from the

(Mr. Fathalah, Egypt)

technical, legal and political points of view, was balanced and which represented a solid basis for a final text. Once approved, the Convention would complement other instruments dealing with the various aspects of terrorism.

48. He considered that proposals presented at the current stage should be limited in scope and should be considered in a flexible manner so as not to destroy the consensus reached on most of the draft articles. The preamble should be quite clear, particularly in the definition of the limits of the Convention, in order to avoid differences of interpretation.

49. In connexion with article 9 of the draft, he believed that it would be possible to achieve a consensus on the basis of the principles of the United Nations Charter and of customary international law relating to the struggle against racism and religious and political fanaticism.

50. Article 10 was based on the concept that the acts to which the Convention referred represented an offence under the general law warranting extradition. In that connexion, a maximum period should be set for its exercise.

51. On the other hand, Egypt approved the right of asylum within the general framework of international law and would adopt a flexible attitude when the Working Group considered article 14. Articles 12 and 13 of the draft were completely satisfactory to his delegation, since they referred to the inalienable right of peoples to fight against colonial domination and alien occupation and against racist régimes - a right which the General Assembly had reaffirmed in its resolution 2160 (XXI) - and they reasserted the principle of sovereignty and the territorial integrity of States.

52. Finally, his delegation proposed that the draft should include an article on the revision of the Convention to make it capable of adaptation consistent with the evolution of international relations and so that lacunae in its application could be filled.

53. Mr. GÜNEY (Turkey) expressed his satisfaction that the Ad Hoc Committee had fulfilled its mandate from the General Assembly in a manner consistent with the crying need to adopt effective measures to protect the international community against acts of terrorism leading to the sacrifice of innocent lives and the infringement of fundamental freedoms.

54. The draft Convention submitted to the Committee demonstrated that a consensus existed on a number of difficult and complex questions of principle. What was now needed was an effort to reach the same objective on outstanding questions, namely, article 9 on extradition, article 14 on the right of asylum and the preamble to the Convention, so that the definitive text of the Convention against the taking of hostages could be adopted at the current session.

(Mr. Güney, Turkey)

55. This delegation was prepared to collaborate in the work of the Working Group and to do everything possible to ensure that the draft convention against the taking of hostages would become an international instrument with binding legal force.

56. Mr. MUKUNA (Zaire) pointed out that the draft articles submitted by the Ad Hoc Committee raised no questions of a technical nature, although he would have preferred that the words "Contracting State" should be replaced by the words "State Party". In his view the draft Convention, both in form and content, mirrored the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, drafted by the International Law Commission and unanimously adopted by the General Assembly in 1973.

57. The articles of the draft Convention encompassed the definitions of the act of hostage-taking, the obligation of States to suppress such acts, the clause on extra-territorial jurisdiction and the need for co-operation on the question of preventive security and collaboration in judicial matters.

58. In order to ensure the effectiveness of the Convention and full compliance with its terms, it would be necessary to show flexibility and the spirit of compromise which had prevailed in 1973. Within that framework, he could accept the provision on the right of asylum, and reminded the Committee that the procedural law of States on the question of extradition admitted the principle of non-extradition for offences of a political character, as modified by the so-called "attentat" clause. The option which a State had of allowing extradition or initiating internal proceedings left a margin of freedom which protected it from possible political or other consequences stemming from the granting of the right of asylum or from the substantive internal requirements of the extradition procedure. In that connexion, he drew attention to the opinion expressed by a number of members of the International Law Commission during consideration of the 1973 Convention.

59. It was his view that it would be difficult to promote the cause of political morality by repression without taking into account the causes underlying international terrorism. The scope of the future Convention should therefore be reflected unequivocally in the preamble with a view to safeguarding the interests of the liberation movements; to that end the substance of General Assembly resolution 3166 (XXVIII), paragraph 4, should be incorporated into the preamble.

60. Mr. CRICK (Australia) said that the draft Convention should ensure that offenders under the Convention would be brought to justice. There should be no gaps which would permit offenders to place themselves in a position where a State might be competent to act against them could not actually do so because of inaction on the part of a State with immediate jurisdiction or because of other obstacles.

61. If the Convention did not ensure that the offender could still be brought to justice, a large part of the Committee's work would be to no avail. For that reason, the provisions dealing with jurisdiction and extradition should be studied with special care.

/...

62. Mr. KAPETANOVIC (Yugoslavia) said that the group of non-aligned and developing countries had brought a constructive approach to the work of the Ad Hoc Committee and had contributed a great deal to the successful completion of its work. Yugoslavia had consistently supported the efforts of the international community in the struggle against international terrorism, with the taking of hostages as one of its forms.

63. He expressed satisfaction that the Ad Hoc Committee had reaffirmed the position taken by the General Assembly and various international conferences to the effect that the struggle of the liberation movements was legal, that it was based on provisions of international law of war and that it could not be confused with the criminal activity of irresponsible persons and terrorist groups and organizations. At the same time, it had again been reaffirmed that the territorial integrity, independence and sovereignty of States could not be brought into question or infringed under any pretext whatsoever.

64. Since the Ad Hoc Committee had begun its work, Yugoslavia had insisted on the need to urge States to take effective measures in order to curb terrorist activities; in that regard he was pleased to note that the draft Convention contained clauses on the preventive activities of States. Lastly his delegation felt that, unless it was absolutely necessary, the Committee should not reconsider those questions on which there had been general agreement in the Ad Hoc Committee, and that it would be much more constructive to concentrate on finding solutions to unresolved issues.

65. Mr. MARTINEZ GARIAZO (Uruguay) said his delegation was not completely in agreement with the wording of the draft Convention, since some of its provisions from the technical point of view lacked the clarity and exactitude necessary in a legal instrument, and he expressed the hope that the Working Group would be able to rectify the imprecision.

66. In any case, what was really important was the fact that almost complete agreement had been reached on the substantive questions. His delegation generally supported the draft for that reason, and because it reflected Uruguay's traditional position that the taking of hostages was an odious and reprehensible act which should be prohibited at all times, in all places and under all circumstances.

67. With regard to the unresolved questions of extradition and asylum, his delegation accepted the text of draft article 9, since it understood that the exceptions provided for therein did not exempt the State in the territory of which the offender was found from the obligation of penalizing him in accordance with article 5, paragraph 2, and article 8. His delegation favoured the deletion of article 14 in view of the implicit contradiction in its text.

68. He reaffirmed the position of Uruguay that the taking of hostages in no case constituted a political crime. However, if the Committee felt the need to include a provision on asylum in the Convention, his country would support the Chilean proposal that the current text of article 14 should be replaced by the text of article 12 of the 1973 New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

69. Mr. DUCHÊNE (Belgium) said that the draft Convention elaborated by the Ad Hoc Committee did not satisfy all the wishes of his delegation, as was natural in view of the fact that it represented a consensus on a very complex question. In any case, his delegation would not bring up questions which had already been resolved in the Ad Hoc Committee, although certain provisions, such as article 12, caused his delegation some degree of concern.

70. The preamble should be brief and concise, since the operative part of the convention should be the most important part. Draft article 9 should be reworded, since it lacked clarity and caused problems of interpretation. Furthermore, the freedom of action of States with regard to extradition, as expressed in article 5 of the European Convention on the Suppression of Terrorism, could not be brought into question. Therefore, although his delegation could accept clauses (a) and (b) of article 9 of the draft Convention, it had difficulties with regard to clause (c) of that article.

71. Lastly, he expressed the hope that the draft Convention would be adopted by consensus, which would represent, on the one hand, great progress in the struggle against the scourge of hostage-taking and, on the other, a concrete contribution to international law.

72. Mr. AHMED (Algiers) said that the disagreements in the elaboration of the draft Convention should not overshadow the great progress made in United Nations efforts to combat international terrorism. The work accomplished in that field since 1972 could be appreciated from a purely objective standpoint, judged according to the progress made in positive international law, or from the more important criterion of emphasizing the fundamental principles on which broad consensus had been achieved and which could permit concerted action on the part of the international community.

73. The specific causes which led to the resort to violence and terror could not be judged only by their outward manifestations. A decisive state in the deliberations was the recognition of the legitimacy of the struggle of the national liberation movements and of peoples under colonial domination and alien occupation and the exclusion of those activities, undertaken within the framework of international armed conflicts, from the scope of application of the measures planned by the international community. That principle, as well as the principle that the measures designed to suppress acts of international terrorism should not threaten the sovereignty, territorial integrity and political independence of States, had been enshrined in the draft Convention.

74. His delegation expressed satisfaction with the spirit of compromise which had permitted the solution of most of the problems that had arisen in the elaboration of the draft Convention. In order to solve the unresolved issues, the Working Group should seek formulas permitting the widest possible support, since the particularly delicate problems of judicial powers and national sovereignty were involved. With regard to the right of asylum, his delegation felt that it was necessary to preserve that right, which certain recent international instruments, formulated under the tendentious influence of certain mass communications media on international public opinion, had attempted to diminish. Furthermore, with

(Mr. Ahmed, Algiers)

regard to extradition, there was a need to respect the principle which permitted a denial of extradition in cases involving political crimes and when it was contrary to the basic principles of international law, just as a person who had committed a crime could not be extradited when that involved the danger of being prosecuted or punished as a result of religious or racial discrimination.

75. His delegation could not support any text which did not allow for the principle of advisability of prosecution. The only rule which it could accept was the obligation, in the case of an offence, to submit the case to the judicial authorities for the purpose of prosecution.

76. Mr. KUMI (Ghana) said that the Ad Hoc Committee had satisfactorily carried out the mandate which the General Assembly had entrusted to it and that the draft Convention which it had drawn up constituted a suitable base for future work. The text of the preamble should be improved, and, in particular, should make reference to the various resolutions adopted with regard to the taking of hostages and should highlight the need for international co-operation in that field.

77. His delegation accepted in principle the wording of draft article 1. It felt that articles 2 to 8 deserved special praise and it had no objections with regard to articles 10, 11, 12, 13, 15, 16 or 17. It noted with satisfaction the wording of article 12 with regard to the national liberation movements, which agreed with earlier texts.

78. The Working Group should consider articles 9 and 14, on which there had been no consensus within the Ad Hoc Committee, in order to arrive at acceptable compromises. If there was no consensus, it would be preferable to delete those provisions and let the respective questions be governed by the rules of customary international law.

79. With regard to draft article 18, his delegation felt that the Convention should provide for denunciation only after an initial period of 10 years.

80. Mr. UDAYARATNE (Sri Lanka) said that the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages had dealt with several thorny issues, such as the scope of a possible Convention, national liberation movements, the definition of "taking of hostages", extradition, the right of asylum and the principles of States' sovereignty and territorial integrity in that context. Although a consensus had been reached on many of those issues, others remained to be settled satisfactorily.

81. His delegation firmly believed that the abominable practice of taking hostages should be universally condemned and that a concerted international effort should be made to eliminate it. However, primary responsibility for the adoption of measures against terrorism lay with each individual country. A Convention might serve as a deterrent against the taking of hostages, but it would be naive to expect it to eliminate the practice altogether.

82. He stressed that acts of hostage-taking should not be divorced from the political, economic and social context from which they arose. The root causes of some of those acts could be traced to the international community's inability to

(Mr. Udayaratne, Sri Lanka)

eradicate colonial domination, foreign occupation, racism and apartheid. A Convention should not be used to suppress the just struggle against imperialism, colonialism, racism, apartheid and all forms of foreign domination, by describing those involved in that struggle simply as "terrorists". The struggle of recognized national liberation movements should not be confused with the acts of groups manipulated by foreign interests.

83. Sri Lanka considered the taking of hostages to be one aspect of the phenomenon of international terrorism, and it would support any measure adopted with a view to eliminating it.

84. Mr. POPAL (Afghanistan) noted with satisfaction that the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages had reached a consensus on two of the most controversial questions: national liberation movements and the principles of sovereignty and territorial integrity of States. It had thus been able to submit a draft international convention to the current General Assembly, in accordance with the mandate entrusted to it under resolutions 31/103, 32/148 and 33/19.

85. Afghanistan had been following the work of the Ad Hoc Committee closely, particularly in view of its conviction that the pernicious practice of terrorism affected not only the health, property, security and lives of innocent people, but also international co-operation among States.

86. The Working Group should give careful attention to the remaining issues - namely, the preamble, the clause on the right of asylum and the text of article 9 proposed by Jordan - taking into account all the views expressed during the general debate, with the aim of reaching a consensus. The Sixth Committee could then recommend to the General Assembly during its current session the adoption of a Convention against the Taking of Hostages, which would constitute an important step towards the elimination of a particularly odious aspect of international terrorism.

87. Mr. MAUNA (Indonesia) said that, thanks to the spirit of compromise of all its members, the Ad Hoc Committee had made considerable progress in the preparation of a draft international Convention against the Taking of Hostages.

88. Indonesia attached special importance to that question and had followed the work of the Ad Hoc Committee closely, as was shown by the proposals it had submitted on that subject which were contained in document A/33/194.

89. The Problem of the taking of hostages was one aspect of international terrorism but, if it was to be solved, international discussion must focus on the fundamental causes of such acts, as well. Accordingly, his delegation had supported the proposal for the establishment of a Working Group to deal with the remaining questions, taking into account the views expressed in the Sixth Committee.

90. Mr. SAID (Pakistan) said that the preamble of the draft Convention against the Taking of Hostages should stress that the international community recognized the need to eliminate the causes of desperate acts of that kind. He also thought the proposed Convention should be based on the fundamental principles of international

/...

(Mr. Said, Pakistan)

law and on the provisions of the United Nations Charter, particularly the principle of the equality, sovereignty and territorial integrity of States. Accordingly, his delegation welcomed draft article 13, although it hoped that the words "in contravention of the Charter of the United Nations" would not be seen as an obstacle to the strict application of the principle of non-intervention, for there must be no possibility of a State intervening militarily in another State to secure the release of hostages.

91. With regard to the provisions concerning jurisdiction and extradition, he noted that draft article 5 amply met the basic objective of ensuring the prosecution of hostage-takers and, therefore, the provisions of draft article 10 appeared unduly elaborate. In particular, the legal fiction established in paragraph 4 of draft article 10 could give rise to multiple and conflicting requests for extradition; moreover, it appeared to be superfluous, since the State in which the hostage-taker was found was under a clear obligation to prosecute.

92. His delegation agreed with the Jordanian proposal, incorporated as draft article 9, which made provision for an exception to the extradition arrangements; that proposal was based on a sound principle, as was paragraph (c) of that article.

93. Furthermore, his delegation felt that the extradition provisions were so comprehensive and far-reaching as to raise doubts about the sovereign right of States to grant territorial asylum in certain circumstances. Consequently, it would favour a provision similar to existing draft article 14, though more categorical, clearly stating that the provisions of the Convention did not impair a State's right to grant territorial asylum.

94. With regard to draft article 12, he pointed out that most of the movements struggling for self-determination were not recognized by the colonial or occupying States and were usually denied the rights established under Additional Protocol I of the Geneva Conventions. Draft article 12, currently drafted, would allow those States to claim that, since the Geneva Conventions did not apply, all acts of hostage-taking, even if they were a reaction to the illegal activity of colonial or occupying Powers, would be covered by the proposed Convention and would thus be subject to extradition. The existing text of draft article 12 did not clearly exempt the acts of liberation movements, and he therefore thought the Working Group should draft a more comprehensive provision on that subject.

95. Mr. BINSÄHL (Democratic Yemen) said that the draft proposal submitted to the Sixth Committee on combating international terrorism and the taking of hostages also reconfirmed the struggle of national liberation movements. The violence practised by racist, capitalist and imperialist régimes obliged some groups of people to resort to acts of violence, including the taking of hostages. In considering aerial hijacking and the taking of hostages, it should be remembered that military aircraft were bombing peaceful villages in southern Lebanon and in the occupied Arab territories in an attempt to exterminate the Palestinian people.

96. He pointed out that the Working Group must display a spirit of flexibility and understanding in trying to solve the remaining problems and, in that connexion, he

/...



(Mr. Binsahl, Democratic Yemen)

stressed the need to change the wording of draft articles 12 and 13 in order to prevent any misunderstanding. He supported the inclusion of draft article 9 concerning extradition and suggested that one of the preambular paragraphs should make provision for national liberation movements to become parties to the Convention.

#### ORGANIZATION OF WORK

97. The CHAIRMAN, referring to the programme of work of the Sixth Committee (A/C.6/34/2), suggested that the original order of consideration of items should be changed and that the Committee should take up the report of the United Nations Commission on International Trade Law on the work of its twelfth session (item 109) before considering the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (item 114). If he heard no objection, he would take it that the Committee agreed to that suggestion.

98. It was so decided.

The meeting rose at 1.15 p.m.