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SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

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The meeting was called to order at 3.15 p.m.

ORGANIZATION OF WORK

1. The CHAIRMAN said that, in the light of informal consultations, he wished to nominate Mr. Mikulka (Czechoslovakia) for the office of Chairman of the Sub-Committee on Good-Neighbourliness.

2. Mr. Mikulka (Czechoslovakia) was elected Chairman of the Sub-Committee on Good-Neighbourliness by acclamation.

AGENDA ITEM 133: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (A/42/485 and Add.1)

3. The CHAIRMAN said that the list of speakers on the item would be closed at 6 p.m. that day.

4. Mr. FLEISCHHAUER (Under-Secretary-General, The Legal Counsel), introducing the report of the Secretary-General on item 133 (A/42/485 and Add.1) recalled that that item had first been included in the agenda of the General Assembly at its thirty-fifth session and said that the Assembly had recognized the important role of diplomatic and consular missions and representatives, as well as of missions and representatives to international intergovernmental organizations and officials of such organizations, in the maintenance of international peace and the promotion of friendly relations among States. The Assembly had demonstrated its belief that respect for the principles and rules of international law governing diplomatic and consular relations, in particular those aimed at ensuring the inviolability of diplomatic and consular missions and representatives, was a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter.

5. Every year the General Assembly adopted resolutions requesting States to report periodically serious violations of the rules governing diplomatic and consular relations. The procedure for submitting reports had been established in 1980 by General Assembly resolution 35/168.

6. At its fortieth session, the General Assembly had requested the Secretary-General to prepare and to circulate to all States a survey of the operation of the reporting procedures. In response to that request, the Secretary-General had submitted the study annexed to document A/41/547. The Assembly had taken note of the innovations suggested in the survey and had, as a result, included subparagraphs 10 (c) and (d) in its resolution 41/78.

7. He noted that the latest step taken by the General Assembly had been the adoption of resolution 41/78, and referred to paragraph 11 of that resolution. Accordingly, the Secretary-General had prepared the guidelines which were annexed to the document before the Committee. In the preparation of those guidelines, account had been taken of the international conventions on the protection of

(Mr. Fleischhauer)

diplomatic representatives, General Assembly resolutions, the way in which States had generally submitted their reports in the past and the written and oral comments made by Governments.

8. The report under consideration (A/42/485) was divided into three parts. The first referred to the relevant provisions of General Assembly resolution 41/78; the second contained the communications received from States pursuant to paragraph 9 of General Assembly resolution 41/78; and the third provided, in accordance with paragraph 13 (a) of that resolution, information on the state of ratification of and accessions to the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963 and the respective Optional Protocols thereto, as well as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973. After the report had been drawn up, the German Democratic Republic had become a party to the Vienna Convention on Consular Relations and China had become a party to the Convention of 1973.

9. The Secretary-General was aware of the importance which the diplomatic community attached to enhancing the protection, security and safety of diplomatic and consular missions and representatives and had repeatedly stated that attacks against diplomatic personnel constituted an attack against the very concept of the harmonious organization of international relations. The Secretary-General was pleased that the General Assembly had given him the opportunity to help improve the current situation in that field, particularly by bringing to the attention of States the possibility of using his good offices, and would continue to do as much as he could in order to assist the work of the General Assembly.

10. Mr. KOURULA (Finland), speaking on behalf of the five Nordic countries, said that, in introducing the item under consideration in the Sixth Committee in 1980, the Nordic countries had emphasized the serious and urgent nature of the issue. The intervening years had not lessened their concern. Violations of the security and safety of diplomatic and consular missions and representatives had occurred also during the past year.

11. The first preambular paragraph of General Assembly resolution 41/78 referred to the important role of diplomatic and consular representatives in the maintenance of international peace and the promotion of friendly relations among States. The community of nations must maintain constant vigilance with regard to violations of the security of diplomatic and consular missions. Similarly, effective protection must be provided to missions and representatives to international intergovernmental organizations and officials of such organizations.

12. The Nordic countries once again stressed the importance of close co-operation between the sending and receiving States. Practical arrangements must be made in order to ensure the inviolability of diplomatic and consular missions and the safety of diplomatic and consular agents.

13. In recent years there had been a tendency to expand those parts of the resolution on the item under consideration which were of a secondary nature in

(Mr. Kourula, Finland)

relation to the substance of the matter. The resolutions of previous years had not included a list of the measures taken by States to prevent the repetition of violations of the security of diplomatic missions and representatives and the measures proposed by States in order to enhance the protection of diplomatic agents. Although such a list would undoubtedly provide useful guidance to States in their efforts, the details of the security measures required would vary from State to State and should remain confidential.

14. While the sending or accrediting States were entitled to expect protection for their diplomatic and consular representatives, such representatives in turn had the duty under international law to respect the laws and regulations of the receiving States.

15. The rules of customary international law concerning the protection of diplomatic and consular missions and representatives had been codified and strengthened through the conclusion of a number of international conventions. Part III of the Secretary-General's report (A/42/485) included information on the state of ratification of, and accessions to, those conventions.

16. The Nordic delegations urged States that had not yet done so to become parties to the international conventions on diplomatic and consular relations, in particular the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

17. What was needed was the effective and universal application of those rules. The procedure for reporting serious violations of diplomatic security and safety was a central element in that regard, and it had proved its usefulness in drawing attention to the violations and to measures taken to put an end to them.

18. He noted that the Secretary-General, in response to paragraph 11 of General Assembly resolution 41/78, had prepared guidelines and had distributed them to all States under cover of a note verbale dated 10 June 1987.

19. A harmonized procedure was likely to strengthen the reporting of serious violations of the protection, security and safety of diplomatic and consular missions and representatives; experience appeared to support that view. The Nordic delegations, in co-operation with other delegations and after listening to the Committee's debate on the item, would submit a draft resolution which they hoped would meet with general acceptance. The resolution adopted the previous year provided a solid basis for the present year's work.

20. Mr. FRANCIS (Jamaica) said that the protection of the security and safety of diplomatic and consular missions and representatives was a basic prerequisite for the effective functioning of diplomatic and consular agents.

21. The effective functioning of diplomatic and consular representatives did not depend solely on whether or not they were the subject of a violent attack; their effective functioning was determined by the climate of security in which they performed their duties. Diplomatic and consular agents could not act effectively if they were fearful of possible attacks on their vehicles or offices.

(Mr. Francis, Jamaica)

22. General Assembly resolution 41/78 requested certain steps to be taken by the States and the Secretary-General. Paragraph 11 of the resolution requested the Secretary-General to prepare guidelines embodying the relevant questions that States might wish to consider when reporting. Paragraph 9 of the resolution requested all States to report to the Secretary-General serious violations of the protection, security and safety of diplomatic and consular missions and representatives and to report on measures taken to bring the offender to justice. Paragraph 10 of the resolution also requested the Secretary-General to take a number of steps. Paragraphs 10 and 11 of the resolution, together with the other operative paragraphs, constituted a system for dealing with serious violations of the protection, security and safety of diplomatic and consular missions and representatives.

23. The information requested of States in paragraph 9 of resolution 41/78 was comparable to, and related with, the obligations contracted by States under two conventions, the International Convention against the Taking of Hostages of 1979 and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973. According to article 4 (b) of both conventions, States were to co-operate by exchanging information and co-ordinating the taking of administrative and other measures to prevent the commission of those offences. That obligation could have a direct impact on the matter; if a person who committed acts against the security and safety of diplomatic and consular missions and representatives knew that he would be blacklisted by all States and would not be allowed to enter them because he was persona non grata, the violence against such missions and representatives would perhaps be reduced. He trusted that such information would be useful in dissuading persons who were contemplating committing acts of violence.

24. He commended the Secretariat on the guidelines embodying the relevant questions that States might wish to consider when reporting, annexed to the report under consideration. However, he pointed out that guideline 7, relating to accomplices of the alleged offenders, should take into account article 2 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, pursuant to which an act constituting participation as an accomplice in a violent attack would be considered a crime. He suggested, therefore, that the details included in guideline 5 of the annex should also be included in guideline 7, in the case of accomplices. With those details added, he trusted that acts of violence against diplomatic and consular missions and representatives would be reduced to a minimum.

25. Mr. LUTEM (Turkey) said that his country attached great importance to the item under consideration. The General Assembly, taking into account the fact that the protection, security and safety of diplomatic and consular missions and representatives was one of the areas most vulnerable to terrorist activities, and also taking into account the divergent views on international terrorism in general, felt that it would be easier to reach consensus on effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives. His delegation was especially pleased that the reporting

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(Mr. Lutem, Turkey)

procedures were working satisfactorily. The number of violations reported between 1981 and 1984 had increased from year to year, but had decreased in 1985 and 1986. The total number of violations in 1984 had been 37, decreasing to 19 in 1985 and 10 in 1986. According to the present report, only four States had communicated information relating to violations of the protection, security and safety of diplomatic and consular missions and representatives, and one State had informed the Secretary-General of the outcome of a violation committed against a diplomatic representative. He was pleased to report that there had been no violent attacks in Turkey against internationally protected persons during the reporting period.

26. Turkey had consistently advocated international co-operation in preventing and combating any form of terrorism and had always emphasized the fundamental obligation of States to ensure the security and safety of diplomatic and consular missions and representatives; the relative improvement noted in that field was due to a great extent to that co-operation and the willingness of States to take measures to combat that form of terrorism. His delegation would co-sponsor any draft resolution re-emphasizing and reiterating the importance of the protection and security of diplomatic and consular missions and representatives which might be adopted by consensus in the Committee.

The meeting rose at 4 p.m.