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SUMMARY RECORD OF THE 49th MEETING

Chairman: Mr. FERRARI-BRAVO (Italy)

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The meeting was called to order at 10.55 a.m.

AGENDA ITEM 120: 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/AC.188/L.3, A/33/39 and Corr.1, A/33/110, A/33/194, A/33/209, A/33/229 and A/C.6/33/L.5 and L.6)

1. Mr. GYAWALI (Nepal) said that the question of drafting an international convention against the taking of hostages was a subject of universal concern, as could be clearly seen from the Ad Hoc Committee's report (A/33/39). It was the responsibility of all civilized Governments and of the United Nations to ensure the protection of individuals against that cruel practice. The principle of protecting innocent civilians had been accepted as far back as 1949, when the Geneva Conventions had prohibited the taking of hostages even in time of war. However, ensuring the necessary protection for individuals required the co-operation of all Governments and their determination to punish or extradite the criminal.

2. His delegation regretted that, despite the efforts of both the Working Groups, it had not been possible to finalize the text of the convention. Some problems remained to be solved as regarded the preamble, the definition of the act of hostage-taking and the scope of the convention. None the less, it was heartening to know that the Ad Hoc Committee had accomplished a great deal in identifying the major areas of general agreement. Since the success of the proposed convention was contingent on the number of States accepting it, it was to be hoped that there would also be general agreement soon on the points not yet resolved and that the question of acts covered by international law applicable to armed conflicts resulting from the assertion of the right to self-determination against racist colonial and alien régimes would not unduly complicate that agreement. His delegation did not doubt that there would be a consensus on permitting the Ad Hoc Committee to continue its work in 1979 and that draft resolution A/C.6/33/L.5 would be unanimously adopted.

3. Mr. LANG (Austria) said he was gratified to learn that the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages, contrary to what might have been expected after its first session, had been able to embark upon the actual process of drafting articles during its second session. It was evident from the reports of the two Working Groups that considerable progress had been made.

4. His delegation particularly welcomed the statement contained in paragraph 16 of the report of Working Group I that there was general agreement that no one should be granted an open licence for taking hostages. That statement alone would dispel any doubts concerning the legitimate nature of the issue under consideration. His delegation appreciated the efforts which had been made to solve the problem of national liberation movements. From the standpoint of legal technique, the formulae appearing in paragraphs 20 and 21 of the Ad Hoc Committee's report (A/33/39) were to be preferred to the text contained in paragraph 19. His delegation appreciated the position of those who had insisted that a text be incorporated into the convention along the lines of paragraph 19, but it considered

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(Mr. Lang, Austria)

nevertheless that such a formula might more properly be placed in the preamble or in a resolution adopted simultaneously with the convention itself. Since common ground had emerged as far as those sensitive questions were concerned, it seemed likely that a compromise could be found by the Committee at its next session provided that all parties concerned continued and intensified their efforts to that end.

5. In regard to the report of Working Group II, his delegation wished to repeat its request that a provision be included in the convention to the effect that the exchange of information between Contracting States should not be limited to preventing the taking of hostages but should also cover the question of easing their situation. The obligation to ease that situation should be imposed not only upon the contracting State in whose territory the hostage was held; it should also be incumbent on all Contracting States to co-operate as closely as possible, for example, by an exchange of all relevant information.

6. The proposal of Yugoslavia contained in paragraph 27 of the Ad Hoc Committee's report, seeking to add a provision under which Contracting States would be obliged to undertake effective measures to prohibit on their territories illegal activities of persons, groups and organizations that organized, instigated, encouraged or engaged in the perpetration of acts of taking of hostages, would not be opposed by his delegation, although the qualification of such activities as illegal seemed to be superfluous.

7. His Government strongly supported the proposal of the delegation of the Netherlands to the effect that the scope of the opening sentence of article 5, paragraph 1, should be enlarged with a view to establishing the jurisdiction of Contracting States not only in respect of offences set out in article 1 but also in respect 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. While his delegation was certainly aware of the motives behind the proposal of the delegation of Barbados to add a new paragraph 3 to article 7, he considered that the implications of such a provision in relation to the establishment of jurisdiction by the competent tribunals should not be overlooked. In conclusion, he wished to see the final clauses of the convention drafted in such a way that the relevant existing conventions, such as the Hague Convention for the Suppression of Unlawful Seizure of Aircraft and the European Convention on Terrorism, would not be restricted as to their application.

8. His delegation was in favour of extending the mandate of the Ad Hoc Committee and hoped that it would be in a position to submit the text of a draft convention against the taking of hostages to the General Assembly at the latter's next session.

9. Mr. BEDJAOU (Algeria) said that the present era had given birth to an "international of violence" which represented a crisis of civilization and had placed States, which had a monopoly of legitimate violence, in a particularly difficult political, legal and ethical position. It was also to be noted, however - and in that connexion he cited a President of the United States, Thomas Jefferson - that violence was unavoidable as a weapon for bringing about change called for by the intolerable injustices of the present-day world and the concentration of political and economic power in the hands of a few.

(Mr. Bedjaoui, Algeria)

10. The Sixth Committee had currently under consideration the report of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages. The difficulty of defining the problem was particularly great because the approaches and interpretations of different States reflected their differing ideological systems and interests as well as the political and legal values of each society. Within the general context of terrorism, which was the responsibility of the Special Committee on International Terrorism, the taking of hostages was a complex concept which, while it could be envisaged in terms of current reality, must also, because of that very fact, be considered only in a calm atmosphere devoid of passion, prejudice and preconceived ideas. He paid a tribute to the Chairman of the Ad Hoc Committee, who had shown great concern for objectivity and understanding. The drafting of an international convention against the taking of hostages called for objective analysis of those situations which had given rise to the phenomenon; otherwise, failure and disappointment would again result. It was necessary to be clear and to try to understand the nature of violence which was not undertaken for its own sake, sometimes stemming inevitably from the attitude of the State itself, which was all too often mired in the selfishness of its privileged classes or caught up in imperialist adventures.

11. During its second session in Geneva, the Ad Hoc Committee had set as its goal the development of a general approach to the problem of drafting a legal instrument against the taking of hostages and had concentrated its attention on such points as the range and scope of the future convention, the definition of the concept of hostage-taking, extradition and the right of asylum, and the need to refrain from the use of force as a means of liberating hostages. Although the discussion had revealed deep differences on fundamentals, delegations had nevertheless been able to bring their positions closer together where compromise had seemed possible or where a consensus had been reached on most of the technical provisions of the nine articles of the draft convention.

12. As the Sixth Committee turned to the as yet unresolved questions of defining the concept of the taking of hostages and the scope of the future legal instrument, his delegation wished to remind members of certain basic principles which must be observed in drafting the convention. First, there could be no question of drawing up rules which could be turned against oppressed peoples. National liberation movements which were struggling against colonialism and foreign domination must be excluded from the scope of the instrument, since their activities should normally be regarded as falling within the framework of international armed conflicts already covered by the four Geneva Conventions of 1949 and by Additional Protocol No. 1 of 1977. The general rules of war and in particular those relating to the taking of hostages in armed conflicts of an international character were within the competence of other bodies and institutions than the Ad Hoc Committee, which had no mandate to codify in a separate convention the provisions regarding the taking of hostages contained in the additional protocols to the Geneva Conventions.

13. His delegation seriously doubted that it was sufficient to make a vague reference to article 1, paragraph 4, of Protocol No. 1, as such a reference did not seem to be legally justified; first, because the Protocol had not entered into force; second, because a great many States, and, in particular, those which still

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(Mr. Bedjaoui, Algeria)

exercised colonial or racist domination, had refused to become parties and such a provision would therefore have no legal force in their eyes; and, third, because the article would be devoid of legal force if States were to accede subject to a reservation on that particular provision. The definition of the scope of the draft convention must therefore be contained in a separate article which should enumerate precisely those cases to which the convention would apply, while strictly excluding the activities of national liberation movements. That point must be clear, and it would indeed be paradoxical if discussions were to take place in Geneva regarding one draft which was designed to broaden the protection accorded to groups armed, organized and directed by a responsible command struggling against an existing Government while another draft was being discussed in New York for the purpose of intensifying the repression of terrorism no matter what its origin, basis and political justification might be.

14. Second, his delegation could not accept any definition of the concept of the taking of hostages if the act were to be considered, not in its essence, but only at the level of its consequences according to an excessively formalized scheme: kidnappers - hostages - measures of coercion. The Committee must concern itself with preventing the evil or eliminating the circumstances which had produced it if the provisions adopted against terrorism were not to prove, as had been the case until now, inadequate and often ineffective. Hasty conclusions and subjective attitudes must be avoided, and the situation must be analysed on the basis of rigorous legal arguments capable of bringing about the widest possible consensus. In particular, it was essential to avoid the easy solution of regarding all acts involving the taking of hostages as offences under ordinary law. The domestic criminal law of many countries made provision for the concept of political offences, and it would be desirable to draw a distinction at that level, it being understood that political offences did not exclude prosecution and penalties under international law. It must also not be forgotten that the collective taking of hostages by colonialist or racist States might have been the cause which had led to the taking of individual hostages.

15. Third, his delegation was of the opinion that extradition resulting from the taking of hostages must in no way be permitted to prejudice the right of political asylum. It therefore regretted that the recent adoption of conventions drafted hastily under the pressure of events and of public opinion influenced by the mass media had already sounded the death knell of a principle which had been widely accepted as part of the international legal order. In that connexion, he felt that the Tokyo Convention of 14 September 1963 on offences and certain other acts committed on board aircraft, which, in article 2, drew a distinction between political offences and those under ordinary law, could represent a useful reference point for the Committee. The stipulation in that article to the effect that "no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination" had demonstrated to part of the international community that it was not possible to suppress all illicit acts against civil aviation, as experience had shown that virtually all such acts were of a political character.

(Mr. Bedjaoui, Algeria)

16. In any action taken to free hostages, care must be taken not to legitimize, under any pretext, recourse to the threat or use of force against the sovereignty, territorial integrity and independence of States. The general condemnation of the taking of hostages, which was to be made a principle, must also cover such acts as the large-scale taking of hostages by States which continued to exercise colonial or racist domination.

17. In order to put an end to an ill-intentioned press campaign which had accused Algeria of softness towards terrorism in connexion with the reception at its airports of hijacked aircraft carrying hostages, he wished to make it clear that the position of his Government was that, apart from the legitimate obligations of the State to its own subjects, no assistance would be given except at the express request of the competent international authorities, such as the Secretary-General of the United Nations, international organizations responsible for the regulation and control of air navigation or world humanitarian organizations.

18. His delegation wished to express its appreciation for the work of the Ad Hoc Committee, whose mandate it wished to see renewed. It would give the Ad Hoc Committee its full support in drafting a legal instrument which was acceptable to all.

19. Mr. OUYANG Chu-ping (China) observed that, during its second session, the Ad Hoc Committee had made a special study of the scope of application of the Convention, and of the question of national liberation movements. The Chinese Government had consistently opposed terrorist acts such as the taking of hostages, hijacking, kidnapping and assassination. Such acts, although inspired by political struggle, did not win the sympathy of the masses. Moreover, they were detrimental to just struggles, which must rely on the people and unite and mobilize them, and were detrimental to the cause of national liberation movements and peoples' revolutions. In recent years, the taking of hostages and hijacking had taken place continuously, endangering the lives and property of the people and the safety of international civil aviation, and affecting international communications. It was necessary to take appropriate measures to strengthen international co-operation in preventing such acts. His delegation therefore supported in principle the formulation of an international convention against the taking of hostages.

20. A comprehensive approach must be taken to that complex question. One of its aspects related to national liberation movements. No provision should be allowed to be used to harm those movements and the just struggles by the peoples of various countries against imperialism, colonialism and hegemonism. It was the difficult and serious task of the Ad Hoc Committee to prevent that from happening. Existing differences of opinion could only be removed by taking account of current reality, insisting on correct principles, and conducting consultations on an equal footing. It would then be possible to establish the basic principles which the Convention should contain. The other important aspect of the question related to respect for the sovereignty of States and non-interference in their domestic affairs. It was

(Mr. Ouyang Chu-ping, China)

for States to determine the extent of their jurisdiction and how they wished to exercise it. Where a number of States were involved, they should consult one another and co-operate on the basis of equality and mutual respect for sovereignty. It was inadmissible for one party to interfere, under any pretext, in the internal affairs of another party, or to infringe its territorial integrity and independence in order to rescue hostages. The possible consequences of such actions at the international level would only complicate the problem still further. His delegation would make a serious study of the views and suggestions put forward by other States, and would work with them to adopt effective and appropriate measures for preventing terrorist acts such as the taking of hostages and hijacking.

21. Mr. JEZIL (Czechoslovakia) said that the position of principle taken by his country was well-known; it considered that acts of terrorism which affected the health, property, security and even the lives of innocent people had dangerous consequences for good relations among States. As the perpetrators of such acts of violence could, at the current time, quickly move to the territory of another State to escape the justice of the State on the territory of which they had committed their crime, broad international co-operation was essential to deal with the problem.

22. Such co-operation should not, however, be limited to mere verbal proclamations, or to proposals which brought very little that was new. Experience showed that formalistic interpretation of the letter of a treaty did not result in the suppression of international terrorism or the taking of hostages. What was needed first of all was to put an end to double standards which arose from a varying approach to terrorist acts, depending on the nationality of their perpetrators. Spectacular measures, taken unilaterally, even if successful in individual cases, could not make any substantial contribution to the suppression of international terrorism. However, to accept terrorists or to punish them merely in a symbolic way, instead of extraditing them to the State where their act had been committed, was contradictory to the purpose of international treaties which sought to suppress terrorism. There must therefore be international co-operation in that area, based on the principles of international law and on respect for the principles of national sovereignty, the inviolability of borders and non-interference in the internal affairs of States. It was also important that the struggle against terrorism should not in any way prejudice the right to self-determination of peoples fighting against imperialist, colonialist, neo-colonialist and racist régimes.

23. The taking of hostages, despite the fact that it differed from other manifestations of terrorism, was only one type of terrorist act and therefore part of the problem of international terrorism, which must be tackled comprehensively. Although Czechoslovakia was not a member of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages, it had been following the work of the Committee with close attention. The problems faced by the Ad Hoc Committee were analogous to those dealt with by the Ad Hoc Committee on International Terrorism, and to those with which the international community had had to deal in the course of drafting the Hague and Montreal Conventions on the protection of international civil aviation against terrorism. An ever-growing

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(Mr. Jezil, Czechoslovakia)

number of States held the view that those Conventions had not fulfilled the hopes placed in them, and had not been effective in preventing the recurrence of such acts of terrorism. It was also clear that such important issues as the failure to respect the rights and interests of national liberation movements, the responsibility of States for the activities of groups or individuals which caused damage to another State or to its citizens, and territorial asylum and extradition, were so complicated that a certain time would be needed for them to be studied and resolved.

24. The report of the Ad Hoc Committee (A/33/39) might seem too optimistic, given the fundamental differences of opinion still persisting among States on the principal issues. The Committee had, however, accomplished useful work so far, although it had not achieved any striking results. However, international co-operation in the field of the struggle against terrorism must not be limited to participation in multilateral agreements, as experience had shown that better results could often be achieved through bilateral co-operation. For those reasons, Czechoslovakia did not regard the work of the Ad Hoc Committee on the Drafting of an International Convention against the Taking of Hostages, and of the Ad Hoc Committee on International Terrorism, as the only means of strengthening and making more effective international co-operation in those fields. His delegation would none the less continue to participate in their activities as long as they seemed likely to serve a useful purpose.

25. Mr. KAPETANOVIC (Yugoslavia) said that terrorism was a form of indirect aggression which endangered human lives, threatened international peace and security and friendly relations among States, and destabilized social systems. The taking of hostages, which had not yet been regulated by an international instrument, and which called for energetic action by the international community, was only one aspect of that phenomenon. Although the Ad Hoc Committee had not been able to submit a draft convention to the current session of the General Assembly, as called for by Assembly resolution 32/148, the work which it had accomplished during its second session was fairly satisfactory. It had clarified a number of controversial issues, and had succeeded in reconciling divergent views, thanks to the spirit of understanding and tolerance which had prevailed during its work. It could therefore be hoped that the Committee would succeed in its task, and would adopt a draft convention during its following session.

26. Although no decision had been taken with regard to the wording of certain controversial provisions, agreement had been reached on the general principles on which the convention was to be based. For instance, all the members of the Ad Hoc Committee had confirmed that the taking of hostages was contrary to international law, and had reaffirmed the right of liberation movements to fight against colonialism, racism, apartheid, aggression and illegal occupation, within the framework of the rules of international law applicable to armed conflicts. They had thus recognized that there was a distinction between terrorism and the legitimate struggle of recognized liberation movements, and that in the light of that distinction, terrorism must be prohibited by international conventions, whereas the struggle of liberation movements, defined as armed conflict, was regulated by the Geneva Conventions and Additional Protocols. He emphasized that, in their proposed text relating to the scope of the Convention, the group of non-aligned and developing countries had made that distinction clear, without however bringing

(Mr. Kapetanovic, Yugoslavia)

into question the illicit nature of hostage-taking. Their proposal was a sound basis for overcoming existing problems. The group of non-aligned and developing countries had also dealt with a number of other problems which the Ad Hoc Committee was expected to resolve during its next session, including the definition of the taking of hostages and of offenders, the protection of the sovereignty, territorial integrity and independence of States in connexion with the freeing of hostages, acts committed by States, and the right of asylum. His delegation fully supported the position outlined, on behalf of the group, by the representative of Algeria.

27. In his view, two problems should be brought to the attention of the General Assembly. The first was the question of the establishment of jurisdiction in connexion with the taking of hostages. Although views on that issue had been harmonized to a great extent (articles 5, 6 and 7 of the draft convention), it remained to be decided which State should have priority in prosecuting an offender in cases where several States were involved. His delegation considered that priority should be given to the State against which the criminal act had been directed. A paragraph to that effect should therefore be incorporated into the draft convention.

28. The second problem concerned preventive measures. His delegation, prompted by the desire to render the convention a complete and effective international instrument, had proposed an amendment (A/AC.188/L.19) to article 2 of the draft (A/AC.188/L.3) submitted by the Federal Republic of Germany. While the latter contained mainly provisions that regulated the situation post factum, his delegation's amendment called for the taking of preventive action by States signatories of the convention and was based on General Assembly resolutions that had been adopted by consensus urging Member States to take strong action with a view to preventing and stamping out terrorism. Some delegations had argued that it was difficult to prohibit the activity of various groups and organizations that organized, instigated, encouraged or engaged in the perpetration of acts of hostage-taking. They had alluded, among other things, to constitutional problems, and to respect for freedom of speech and assembly and democratic freedoms. Such an attitude was tantamount to enabling a terrorist organization to operate freely, which was unacceptable. A careful analysis showed that none of the amendment's provisions was in contradiction with the existing legal solutions relating to the struggle against terrorism. The convention being prepared by the Ad Hoc Committee should provide an opportunity to amend and complete the legislation of certain Member States, which might still be imprecise on that point.

29. His delegation believed that the Ad Hoc Committee would be able to complete the draft convention at its next session. But it still remained for each State to stand in readiness to tackle the problem seriously and implement the international conventions strictly, adhering to both the spirit and the letter of their provisions. The same criteria must be applied to all forms of terrorism. It was not enough merely to sanction the consequences of such acts; effective preventive measures should also be taken. A failure to do so could only lead to a deterioration of international relations and cast doubt on the willingness to fight terrorism. He recalled, in that connexion, the obligations that Member States had solemnly assumed when adopting the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. It was unacceptable that the same act should be

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(Mr. Kapetanovic, Yugoslavia)

qualified, in one case, as a terrorist act and, in another, as a struggle for political and human rights. All existing dilemmas should be clarified, otherwise it would be pointless to draw up a convention.

30. Mr. GILCHRIST (Australia) recalled that his delegation had already had the opportunity in 1976 and 1977 to make its views clear regarding the elements which ought to be borne in mind when drafting a convention against the taking of hostages. He wished to stress, however, that hostage-taking was basically a question of human rights. A hostage was inherently an innocent person who could not, by his own action alone, satisfy the demands of those who were holding him. One must never lose sight of the fact that a primarily humanitarian, and not a political, issue was involved. That universally condemned crime, of course, also raised questions of the jurisdiction of States. The gap in international law regarding that fundamental aspect of humanitarian law clearly called for action.

31. The Ad Hoc Committee thus had the delicate task of drafting a convention. It had the advantage of having had, as a basis for its discussions, a well-conceived series of draft articles submitted by the Federal Republic of Germany, to which a warm tribute should be paid. Further, the work methods adopted by the Ad Hoc Committee at its last session, especially the formation of two working groups, had proved productive. There was no question that some significant progress had been made, as its report showed. One could only applaud the general agreement, discussed in paragraph 16 of the report, on the basic principle that no one should be granted an open licence for taking hostages. It was to be hoped that it would soon lead towards general agreement that no one should be granted even a restricted licence for hostage-taking.

32. There had been some reiteration, in the course of the debate, of fears that a universal convention might prejudice national liberation movements in their activities. But it was not clear precisely how a universal convention against hostage-taking would in any way affect the struggles of oppressed peoples. The proponents of a politically restricted convention were thus under some obligation to clarify their position. Indeed, the practice of hostage-taking, far from advancing the cause of national liberation movements, could only set them back. In that context, his delegation welcomed the assurances of the Observer for the Palestine Liberation Organization.

33. Concerning the relationship between the proposed convention and the Geneva Convention on Humanitarian Law and its Additional Protocols, the proposed convention on hostage-taking should be regarded as supplementary to the Geneva Conventions and their Additional Protocols, and not as derogating from them in any way.

(Mr. Gilchrist, Australia)

34. Some had maintained, in the course of the Ad Hoc Committee's debates, that it was unrealistic to hope to achieve international co-operation against hostage-taking until measures were taken to remove the causes of terrorism. Certainly, the efforts to remove the causes of terrorism and, for that matter, of crime and war, must go on, a task which could be more effectively pursued by other United Nations committees and organs, but that should not stop the immediate effort to alleviate humanity's sufferings. A convention against the taking of hostages, in order to be effective, must stipulate that hostage-taking was an offence which every party to the convention was bound to treat as a crime, wherever it might have been committed, and it should provide also that, if a prosecution was not begun within a reasonable time, the detaining State should extradite the wrongdoer to a party which had a defined jurisdiction over the offender.

35. It was true that reconciling appropriate sanctions with the traditional right of asylum presented real problems. The problem of defining a hostage-situation also remained difficult, even if one rejected the bizarre thesis that whole peoples might be regarded as hostages for the purpose of the convention. Such an extension was unacceptable and had no support in law. The task of defining a hostage-situation was surely difficult enough without seeking to introduce ideological issues. His delegation was aware of States' sensitivity regarding respect for their sovereignty and territorial integrity, and hence their understandable concern that nothing in the proposed convention should be construed as authorizing the resort to force or the threat of force as a means of securing the release of hostages. The risks of such eventualities should therefore be reduced, and there might be some value in trying to draft a provision which would promote co-operation between the State in whose territory the hostage was detained and the other State or States directly concerned by allowing the entry of appropriate persons from that State or States for the purpose of negotiating with the hostage-takers.

36. In the absence of general agreement on a draft convention, it would be good if the Ad Hoc Committee succeeded the following year in producing at least an integrated draft, with appropriate indications of alternative texts, and with an accompanying commentary on each draft article, so that the Committee could effectively debate on the political or legal issues still to be resolved. His delegation was thus in favour of renewing the Ad Hoc Committee's mandate for another year and hoped that decision would be adopted by consensus.

37. Mr. AL-KHASAWNEH (Jordan) stated that detailed comments on the Ad Hoc Committee's report would be premature in view of its interim character. The item being dealt with, moreover, in the current stage of the debates was essentially a procedural one. Since his delegation had had more than one occasion to comment on the substantive aspects of hostage-taking, it would refrain from doing so again, although it reserved the right to speak again should the need arise. Like many others, his delegation also approved the spirit of compromise and conciliation that had prevailed in the Ad Hoc Committee at its last session, and that had permitted it to achieve discernible progress. It was in that spirit that the Ad Hoc Committee had devoted its time to a practical and technical consideration of the proposals

(Mr. Al-Khasawneh, Jordan)

before it, and the good faith shown by its members had made it possible to bridge the gap between positions that had been thought too radically far apart. The remaining problems were certainly the thorniest, but there was no doubt that their solution was within reach if the indispensable spirit of compromise were fostered.

38. Without wanting to prejudice the form that would be given to the international instrument against the taking of hostages, his delegation expressed the hope that the renewal of the Ad Hoc Committee's mandate would permit the editing of a balanced draft convention, cognizant of international realities without sacrificing well-established and cherished international law concepts. With that aim in view it had co-sponsored draft resolution A/C.6/33/L.5.

39. Mr. PUNO (Philippines) said that the drafting of an international convention against the taking of hostages was on the agenda of the General Assembly for the third consecutive year. The relevant resolutions of the General Assembly had been adopted by consensus, which bore testimony to the manifestly universal desire to have a convention on the subject concluded under the auspices of the United Nations. Contemporary history showed that no State was safe from that problem. The need for an effective international convention was thus recognized by all. His delegation was fully convinced that decisive measures were urgently needed.

40. In the field dealt with by the draft convention, his delegation was in favour of the principle of "extradition or prosecution". That afforded ample room for flexibility so that, in its application, policy and practical considerations relevant to individual States could fall within the ambit of that principle, without repudiating the principle itself.

41. At its last session the Ad Hoc Committee had made considerable progress, which augured well for its future work. However, there remained several very sensitive questions to be settled with regard, inter alia, to national liberation movements, the precise definition of taking of hostages, extradition and right of asylum and the problem raised by the release of hostages with regard to the principle of respect for the sovereignty and territorial integrity of States, which last question required thorough consideration.

42. Working Group I had focused attention mainly on the scope of the convention, which was one of the major issues which as yet remained unresolved. In that regard, the Ad Hoc Committee must manage to find a compromise formula acceptable to all. It was therefore encouraging to note that, as stated in paragraph 16 of the report, there was general agreement on the principle of the prohibition of the taking of hostages. However, his delegation, which wished to recall in the present context that his country had always been a staunch supporter of peoples fighting against colonial domination and apartheid, understood the concerns aroused in some by the text reproduced in paragraph 28 of the report and stressed that there was a need to conclude an effective and universally acceptable convention. It was essential, in particular, that no provision in such a convention should be interpreted as countenancing any resort to the threat or use of force against the sovereignty,

(Mr. Puno, Philippines)

territorial integrity or independence of other States in the process of dealing with the release of hostages. That was a basic principle for the small and weak nations, and it must be respected in all circumstances by the most powerful countries.

43. His delegation fully supported the basic working paper (A/C.188/L.3) submitted by the Federal Republic of Germany and hoped that other constructive proposals would be forthcoming in the Sixth Committee. In conclusion, it expressed the hope that draft resolution A/C.6/33/L.5 would be adopted by consensus.

44. Mr. EL-BANHAWI (Egypt) said that he considered that the report of the Ad Hoc Committee was excellent, inasmuch as it analysed objectively a sensitive question in a way which accurately demonstrated the amplitude of the problems which arose and, at the same time, reflected the spirit of co-operation which had been shown by the members of the Ad Hoc Committee. The positive results which the latter had obtained at its last session should enable it to complete its work rapidly and to submit to the General Assembly, before its thirty-fourth session if possible, a draft convention that would be able to gain the accession of the majority of Member States.

45. Many countries, particularly the countries of the third world, feared that the draft might contain nothing but ambiguities which could be utilized, directly or indirectly, to suppress national liberation movements; the latter should therefore be totally excluded from the scope of application of the convention. Such an exception would not serve to vitiate the provisions of that convention or those of any other instrument guaranteeing human rights and the security of peoples but rather to defend the legitimate objectives of the liberation movements recognized by the international community, which were struggling for their right to self-determination in accordance with the Charter of the United Nations and the principles of international law and which thus had a right to protection.

46. In his delegation's view, the draft convention should not contain any reference back to the provisions of other instruments, to which States might not all be parties, so that its interpretation and application would not give rise to difficulties and liberation movements could enjoy the necessary protection. His delegation had already mentioned the motives underlying certain acts of international terrorism, motives which had been so well analysed by Pope Paul VI, who had urged Governments to rectify situations of injustice before they turned into situations of violence. To prevent that - and the wisdom of nations rightly said that prevention was better than cure - the peoples still burdened by the yoke of colonialism, racism and alien domination must be rescued from injustice and oppression and must be delivered from their subjection and under-development by all available political and economic means.

47. While reaffirming his respect for the sovereignty and territorial integrity of States and for the conventions governing extradition and right of asylum, his delegation agreed with the Jamaican delegation that in-depth objective consideration should be accorded to the Barbadian proposal contained in paragraph 48 of the report

(Mr. El-Banhawi, Egypt)

of the Ad Hoc Committee, concerning the situation of the State in whose territory the offender was present, where that State was incapable of prosecuting the offender by reason of the fact that such a trial would cause a threat to its security or grave disruption to its population.

48. In conclusion, he paid a tribute to the Government of the Federal Republic of Germany, which had tried to attain the goal sought by formulating just and equitable rules aimed at guaranteeing the welfare and security of mankind, while respecting the legitimate interests of peoples and their national liberation movements. He considered that draft resolution A/C.6/33/L.5 deserved support and adoption by consensus.

The meeting rose at 12.55 p.m.