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MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR  
TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS,  
AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM  
AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE  
AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES,  
INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES

Study prepared by the Secretariat in accordance with the  
decision taken by the Sixth Committee at its 1314th meeting,  
on 27 September 1972

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## INTRODUCTION

1. In a note dated 8 September 1972 (A/8791), the Secretary-General requested the inclusion in the agenda of the twenty-seventh session of an item entitled "Measures to prevent terrorism and other forms of violence which endanger or take innocent human lives or jeopardize fundamental freedoms". In its first report of the twenty-seventh session (A/8800/Rev.1), the General Committee recommended that the item should be included in the agenda and allocated to the Sixth Committee. At its 2037th plenary meeting, on 23 September 1972, the General Assembly decided to include the item in the agenda of its twenty-seventh session, and to allocate it to the Sixth Committee for consideration, in the following amended form: "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes".
2. At its 1314th meeting on 27 September 1972, the Sixth Committee, when discussing the organization of its work, requested the Secretariat to prepare, in connexion with the agenda item in question, "a thorough study on the problem of terrorism, including its origins" (A/C.6/414) for submission to the Committee when it came to consider the item during the current session.
3. As the Legal Counsel stated at the 1314th meeting of the Sixth Committee, on 27 September 1972, in view of the very short time allotted to the Secretariat for the preparation of such a study, it would endeavour to cover the subject as fully as possible within the limits of available staff and documentation.
4. Chapter I will contain a brief account of the origins of international terrorism and its causes. A summary of the action taken in the field of international penal law for the prevention and punishment of terrorism will form the subject-matter of chapter II, which will describe the criminological work carried out on the problem and the movement, in certain multilateral treaties and other instruments relating to extradition, towards the exclusion of terrorism and other serious offences from the category of political offences. The chapter will also list the various international instruments relating to the prevention and punishment of terrorism, with an account of their immediate origin and general methodology.

## CHAPTER I

### THE ORIGINS AND FUNDAMENTAL CAUSES OF INTERNATIONAL TERRORISM

#### I. THE NATURE OF INTERNATIONAL TERRORISM

5. The elaboration of a precise definition of international terrorism is a task which may eventually devolve on the General Assembly or on some other body. For the purpose, however, of preparing a report dealing with the origins and underlying causes of international terrorism, it is necessary to formulate, at least in broad outline, a concept of the area to be dealt with.

6. The present agenda item deals only with international terrorism. It thus excludes activities that are the internal affairs of individual States. The acts of Governments within their own territories in respect of their own citizens have already been extensively dealt with in the work of the United Nations, in particular in that on human rights. To come within the scope of the subject, the interests of more than one State must be involved, as, for example, when the perpetrator or the victim is a foreigner in the country where the act is done, or the perpetrator has fled to another country.

7. The ordinary meaning of the word terrorism has undergone an evolution since it first came into use at the end of the eighteenth century, and has been differently interpreted according to the different types of acts which were uppermost at the time in the minds of those discussing the subject. While at first it applied mainly to those acts and policies of Governments which were designed to spread terror among a population for the purpose of ensuring its submission to and conformity with the will of those Governments, it now seems to be mainly applied to actions by individuals, or groups of individuals.

8. Terrorism, as shown by the derivation of the word, involves the infliction of terror. This is not always done to the immediate victims, who may be destroyed without warning, but the act must be such as to spread terror or alarm among a given population, or among broad groups of people. The act is necessarily a conspicuously violent one, which is often intended to focus public attention and to coerce a State into a particular action. One of the most effective means towards that aim is to endanger, threaten or take innocent human lives and to jeopardize fundamental freedoms.

9. At various times during the previous work on the subject at the international level, discussion was restricted to terrorist acts with political motives. Yet it is now found that quite similar acts, spreading similar terror or alarm among the population, are done for ordinary criminal motives, such as extortion of large sums. It seems difficult to delimit a legal topic on the basis of motives, which often lie hidden deep in the minds of men. Both political and non-political acts constitute current problems. From the standpoint of the effect on the innocent, there is no reason to limit international discussion to terrorist acts with political aims, while leaving aside very similar acts with ordinary criminal aims.

10. The subject of international terrorism has, as the Secretary-General has already emphasized, nothing to do with the question of when the use of force is legitimate in international life. On that question the provisions of the Charter, general international law, and the declarations and resolutions of the United Nations organs, in particular those of the General Assembly relating to national liberation movements, are not and cannot be affected. But even when the use of force is legally and morally justified, there are some means, as in every form of human conflict, which must not be used; the legitimacy of a cause does not in itself legitimize the use of certain forms of violence, especially against the innocent. This has long been recognized even in the customary law of war.

11. International terrorism has also a different character from revolutionary mass movements, which are directly aimed at, and capable of, effecting radical changes in society, involving changes of conduct and attitude on the part of large numbers of people. The terrorist act, on the other hand, even if its main purpose is to draw attention to a political cause or situation, has as its immediate aim something comparatively limited, although important, such as the acquisition of funds, the liberation of prisoners, the spread of general terror, the demonstration of the impotence of Government authorities, or the provocation of ill-judged measures of repression which will alienate public opinion. Thus the terrorist act usually lacks any immediate possibility of achieving its proclaimed ultimate purpose.

## II. ORIGINS AND UNDERLYING CAUSES OF TERRORISM

12. The causation of human action has as yet been most incompletely explained by modern psychology, genetics, sociology and related disciplines. In particular, in the field of use of violence by individuals, barely a beginning has been made in identifying underlying conditions and correlating them with particular acts; and such correlations, even if established, do not explain why only a few at most of those exposed to those conditions become criminals. The discussion of the causes of terrorism is thus apt to give rise to disagreement. This is all the more so since certain terrorist acts may be viewed by some as serious crimes, while to others they are acts of patriotism or heroism. The following remarks are made in compliance with the request of the Sixth Committee, but cannot aspire to be either complete or universally convincing, nor has any attempt been made to deal with any specific historical or current situations with which terrorism has been associated.

13. Man is one of the few species that frequently uses violence against its own kind. He has done so since the dawn of history. In the past, periods in which violence has been especially conspicuous have been those of rapid social change. During the years of the existence of the United Nations, when in most parts of the world, and in both the developed and the developing countries, the patterns of society are changing with almost unprecedented speed, violence has been frequent.

14. The interlinked growth of technology and growth of population have tended to create new hopes, expectations and needs in many social groups. These new attitudes mark a departure from the resignation and passivity with which most men in the past accepted the ills of life. The United Nations Charter is the voice of the aspirations of mankind when it contemplates the establishment of a world in which aggression and the threat or use of force in international relations would be effectively outlawed, friendly relations would exist among nations on the basis of respect for the principles of equal rights and self-determination of peoples, international disputes would be settled justly by peaceful means, and international co-operation would solve international economic and social problems and promote respect for human rights and fundamental freedoms for all.

15. The period of the existence of the United Nations, however, has shown very incomplete and uneven progress towards these goals. While major wars involving the great Powers have not occurred, force has often been resorted to, and has inflicted suffering and exile upon peoples. While progress has been made against colonialism and racism, those evils have not yet been completely eliminated. Even where political independence has been established, in many cases much remains to be done in assisting the populations to attain the minimum level necessary for decent conditions of life. Few advances have been made towards the peaceful settlement of some major international disputes, which are too often left to fester and poison international relations. Among groups where economic and social progress has been relatively slow, conditions have been unfavourable to the exercise of and the respect for human rights and fundamental freedoms.

16. The lack or slowness of advance towards these goals has contributed toward the "misery, frustration, grievance and despair" which, while not themselves causes of terrorism, are psychological conditions or states of being which sometimes lead, directly or indirectly, to the commission of acts of violence. While in the United Nations context it is perhaps appropriate to give special attention to the international factors that contribute to violence, there are also many situations in individual nations which may give rise to the grievance of a particular group or person, leading to acts having international repercussions. Purely personal circumstances can also often have the same result. There are also cases in which there is no genuine grievance at all, and a violent crime affecting more than one country seems to have been committed from mere cupidity, or a desire to escape criminal prosecution. The General Assembly, however, in stressing "misery, frustration, grievance and despair", seems to have singled out for special attention those situations which have the common characteristic of calling for redress.

17. Why is it that the violence resulting from these circumstances takes with increasing frequency the form of international terrorism, threatening, endangering or killing innocent victims? As the peoples of the world grow more interdependent the solution of many problems no longer hangs on any local ruler or government, but on actions and decisions taken thousands of miles away. Men think their ills have been produced by some vast impersonal force, which is deaf to their pleas for justice or impotent to find solutions, rather than by other men, striving for similar although opposed ends and bound to them by the claims of a common humanity.



Modern communications and the growth of the public information media have transformed local incidents into world events, especially when the incidents have an international character. A terrorist act focuses world attention upon the terrorist and upon any cause he may claim to represent. In these circumstances, some such acts - which, as has already been said, cannot possibly by themselves effect radical social changes - are really acts of communication. They are intended to show the world that the determination and devotion of the terrorists are sufficient to compensate in the long run for their apparent inferiority in strength; that their cause is more holy to them than life itself, must be taken seriously, and is worthy of support; and that neither their foe nor the world at large is able to prevent their success in their purpose, or ensure punishment of their deeds and those of their associates.

18. Other such acts, however, seem to be more the result of blind fanaticism, or of the adoption of an extremist ideology which subordinates morality and all other human values to a single aim. In either case, the result is the same; modern life and modern weapons bring more and more strangers and foreigners within the reach of the terrorist, and he uses them as instruments for his purpose. As violence breeds violence, so terrorism begets counter-terrorism, which in turn leads to more terrorism in an ever-increasing spiral.

19. The modern aircraft - which is perhaps the most vulnerable of all the high and complex developments of technology, which contains assemblages of people from many countries, and which if brought under the terrorists' control, offers a speedy and safe means of reaching a distant asylum abroad - is often a factor in modern forms of international terrorism. The many problems of protecting aircraft without destroying the speed and convenience of air travel, or imposing unacceptable procedures upon air travellers, have not yet been completely solved.

20. It thus appears that the "misery, frustration, grievance and despair" which lead to terrorism have many roots in international and national political, economic and social situations affecting the terrorist, as well as in his personal circumstances. The precise chain of causation of particular acts cannot be traced with scientific exactitude. Nevertheless, the General Assembly may wish to identify types of situations which, if a remedy could be found to bring them more into accord with justice, will cease to contribute to the spreading terrorism which has shocked the world.

## CHAPTER II

### ACTION TAKEN IN THE FIELD OF INTERNATIONAL PENAL LAW FOR THE PREVENTION AND PUNISHMENT OF TERRORISM

21. The increase in international terrorist activity, especially since the end of the First World War, produced a reaction in criminological doctrine, including the International Conference for the Unification of Penal Law, whose work on terrorism forms the subject of section I of this chapter. There also emerged a trend towards the exclusion, in extradition treaties or other extradition instruments, of terrorism or other serious offences classified as political offences; this trend is discussed in section II of the chapter. In addition, the League of Nations in 1934 considered the problem of terrorism under the pressure of events and tried to solve it by formulating an international convention. This Convention and other relevant international instruments are dealt with in section III of this chapter.

#### I. CRIMINOLOGICAL WORK, INCLUDING THE INTERNATIONAL CONFERENCE FOR THE UNIFICATION OF PENAL LAW, ON PREVENTION OF TERRORISM

22. Pursuant to a recommendation adopted by the First International Congress of Penal Law held at Brussels from 26 to 29 July 1926, 1/ a series of International Conferences for the Unification of Penal Law was held under the auspices of the International Association of Penal Law 2/ (later the International Bureau for the Unification of Penal Law). 3/ The first such Conference, held at Warsaw from 1 to 5 November 1927, adopted, inter alia, a text on International Penal Law consisting of eight articles. Under the heading "délits du droit des gens" ("offences under international law") it included the following provision: 4/

"Art. 6. An offence punishable according to the laws... (x) shall also be committed, irrespective of the law of the place where the offence is committed or the nationality of the offended, by any person who commits abroad any of the following offences:

...

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1/ First International Congress on Penal Law, Brussels, 26-29 July 1926, Actes du Congrès, 1927, Paris, Librairie des Juris-Classeurs, Editions Godde, p. 636.

2/ First International Conference for the Unification of Penal Law, Warsaw, 1-5 November 1927, Actes de la Conférence, 1929, Paris, Recueil Sirey, p. 1. The conferences were attended by delegations representing States and both governmental and non-governmental international organizations.

3/ Second International Conference for the Unification of Penal Law, Rome, 21-25 May 1928, Actes de la Conférence, 1931, Paris, Librairie des Juris-Classeurs, Editions Godde, p. 1.

4/ First International Conference for the Unification of Penal Law, Warsaw, 1-5 November 1927, op. cit., p.133.

/...

(e) The deliberate use of any means capable of causing a common danger."

23. The question of terrorism was considered by the Third to Sixth International Conferences for the Unification of Penal Law held, respectively at Brussels (26 to 30 June 1930), Paris (27 to 30 December 1931), Madrid (14 to 20 October 1934), and Copenhagen (31 August to 3 September 1935). At the Third (Brussels) International Conference, the term "terrorism" was expressly used for the first time. On the basis of a report submitted by a special rapporteur, Committee V of the Conference recommended for adoption a text on "terrorism" consisting of five articles. The Third Conference, however, owing to the lack of time, decided to refer the matter to the Fourth Conference to be held the following year. The text adopted by Committee V of the Third Conference, reads as follows: 1/

"Article 1. The deliberate use of means capable of producing a common danger shall be deemed to have occurred whenever an accused person has committed an act imperilling life, physical integrity or human health or threatening to destroy substantial property, including, in particular:

(a) Arson, explosion, flooding or submersion; ignition of asphyxiating or noxious substances; destruction or damaging of signals, lamps, works or equipment intended for fire-fighting or life-saving;

(b) Wilful interruption of the normal operation of means of transport or communication, railways, or telegraphic, telephonic or postal services; wilful damaging of governmental or public utility water, lighting, heating or power installations;

(c) Pollution, fouling or deliberate poisoning of drinking-water or staple foods; causing or propagating contagious or epidemic diseases or diseases of animals or plants of prime importance to agriculture, forestry or stock-raising.

Article 2. It shall be a punishable offence to make deliberate use of means of producing a common danger, which shall constitute an act of terrorism chargeable against any person employing crimes against the life, liberty or physical integrity of persons or against governmental or private property for the purpose of propounding or putting into practice political or social ideas.

Article 3. The deliberate use of means capable of producing a common danger shall also be deemed to exist where it is established that an association was formed for the purpose of committing violence against persons or property.

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1/ Third International Conference for the Unification of Penal Law, Brussels, 26-30 June 1930, Actes de la Conférence, 1931, Brussels, Office de publicité, 36, rue Neuve. For the text see also annex I to the reports submitted by the special rapporteurs to the Sixth International Conference for the Unification of Penal Law, Copenhagen, 31 August-3 September 1935, Actes de la Conférence, 1938, Paris, Editions A. Pedone, p. 176.

Any persons who form or co-operate in the formation of such association, knowing the purpose for which it was formed, may be convicted under this provision.

Article 4. Crimes and offences covered by the enumeration in articles 1 and 2 shall be proceeded against and punished, irrespective of the place where the offence is committed or the nationality of the offender, in accordance with the law in force in the country of which he is a national.

If penalties prescribed in the country where the offence is committed differ from those applicable in the country of prosecution, the lighter penalties shall be imposed.

Article 5. The courts and tribunals having jurisdiction pursuant to article 4 shall also have jurisdiction in respect of prosecutions for attempted offences or for complicity in accordance with the law of the country of prosecution."

24. At the Fourth (Paris) International Conference, on the basis of reports submitted by special rapporteurs, Committee III of the Conference adopted a text on "terrorism" consisting of five articles, together with the recommendation that the consideration of offences creating a common and general danger should be deferred until the next Conference and that an international convention should be concluded to ensure the universal repression of terrorist attacks. The text adopted by Committee III of the Fourth Conference reads as follows: 1/

"Article 1. Any person who, with a view to terrorizing the population, makes use against persons or property of bombs, mines, explosive or incendiary devices or products, fire-arms or other lethal or destructive devices, or who causes or attempts to cause, propagates or attempts to propagate any epidemic, animal disease or other calamity, or who interrupts or attempts to interrupt any governmental or public utility service shall be punishable by..., without prejudice to any heavier penalties which may be applicable.

Article 2. Any person who knowingly makes, possesses, introduces or transports an object mentioned in article 1 which is intended for the commission of the offence referred to therein shall be punishable by...

Article 3. Any person who, by public utterances or by writings or drawings circulated among the public or publicly displayed, incites others to

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1/ Fourth International Conference for the Unification of Penal Law, Paris, 27-30 December 1931, Actes de la Conférence, 1933, Paris, Recueil Sirey. For the text, see also annex II to the reports submitted by the special rapporteurs to the Sixth International Conference for the Unification of Penal Law, Copenhagen, 31 August-3 September 1935, Actes de la Conférence, 1938, Paris, Editions A. Pedone, p. 178.

commit the offence referred to in article 1 or defends the act constituting the said offence or the persons committing it shall be punishable by....

Article 4. Any person who has been a member of an association formed or combination established with a view to the commission of the offences specified above shall be punishable by....

Article 5. Any persons other than the instigator who, prior to the commission of the offences referred to in the preceding articles and prior to any prosecution, inform the public authorities thereof and disclose to them the perpetrators or who, even after prosecution has been initiated, cause the arrest of the other offenders shall be exempt from punishment.

The courts may nevertheless order... (preventive detention)."

25. At the Fifth (Madrid) International Conference, on the basis of reports submitted by special rapporteurs, the following text and resolution were adopted by the Conference: 1/

"Article 1. Any person who, with a view to destroying any social organization, employs means calculated to terrorize the population, shall be punishable by....

Article 2. Any person who knowingly makes, possesses, introduces or transports substances or objects intended for the commission of the offence referred to in the preceding article shall be punishable by....

Article 3. Any person who, by any means whatsoever, publicly incites others to commit the offence referred to in article 1 or defends the said offence or the person committing it shall be punishable by....

Article 4. Any person who has been a member of an association formed or combination established for the purpose of committing the offence referred to in article 1 shall be punishable by....

#### RESOLUTIONS

The Conference is of the opinion that:

(a) As regards jurisdiction, States may continue for the time being to follow the rules of territorial jurisdiction or may opt for the rule of universal jurisdiction already adopted in some legal systems.

1/ Fifth International Conference for the Unification of Penal Law. Madrid, 14-20 October 1935, Actes de la Conférence, 1935, Paris, Editions A. Pedone. For the text see also annex III to the reports submitted by the special rapporteurs to the Sixth International Conference for the Unification of Penal Law, Copenhagen, 31 August-3 September 1935, Actes de la Conférence, 1938, Paris, Editions A. Pedone, p. 179.

/...

(b) Extradition should always be allowed. In the case of States whose Constitutions prohibit the extradition of social offenders, the preceding provision does not apply.

(c) The question of offences causing general danger should be referred to the next Conference."

26. Lastly, at the Sixth (Copenhagen) International Conference, on the basis of reports submitted by special rapporteurs, the Conference adopted the following text on terrorism, consisting of eight articles: 1/

"Terrorism

Texts

PREAMBLE: Whereas it is necessary to punish certain acts as special offences, apart from the general incrimination of which they may already be the subject in the legislation of States, when they have endangered the community or created a state of terror calculated to cause a change in, or impediment to, the operation of the public authorities or to disturb international relations, creating in particular a threat to peace, a section or chapter entitled "Outrages endangering the community or creating a state of terror" worded as follows, shall be included in the Penal Code or in a special Act:

ARTICLE 1. - Any person who, by wilful acts directed against the life, physical integrity, health or freedom of a Head of State or his or her spouse, a person exercising the prerogatives of a Head of State, Crown Princes, members of a Government, persons possessing diplomatic immunity, or members of constitutional, legislative or judiciary bodies, has endangered the community or created a state of terror calculated to cause a change in or impediment to the operation of the public authorities or to disturb international relations,

Shall be liable to..... (an increased penalty).

ARTICLE 2. - Any person who has thus endangered the community or created a state of terror:

1. By any wilful act causing a disaster by impeding railway, maritime, river or air communications or by interrupting public services or services of public utility,

Or causing a disaster by the use of explosive, incendiary, asphyxiating or harmful materials,

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1/ Sixth International Conference for the Unification of Penal Law, Copenhagen, 31 August-3 September 1935, Actes de la Conférence, 1938, Paris, Editions A. Pedone, pp. 420-421.

Or causing the pollution, fouling, or poisoning of drinking water or food, or propagating or provoking contagious or epidemic diseases, epizootic or epiphytic diseases, or any other wilful act calculated to endanger human lives;

2. By wilful destruction of, or damage to, public buildings or public supplies, ways and means of transport and communication, signals, lanterns, works and apparatus used for extinguishing fires and rescue operations:

Or by destruction of or damage to hydraulic, lighting, heating or power installations belonging to public services or public utilities:

3. By the wilful use of explosives in a public place;

4. By any other wilful act which endangers human lives and the community: shall be liable to... (an increased penalty).

ARTICLE 3. - Direct successful incitement to the commission of the offences mentioned in the two preceding articles, as well as wilful participation in and attempts to commit such offences, shall entail a penalty of...

ARTICLE 4. - Any person who has organized a conspiracy with a view to the commission of any of the offences mentioned in articles 1 and 2, or who has participated in such a conspiracy, shall be liable to a penalty of...

ARTICLE 5. - Direct incitement, by any means of publicity, to the commission of any of the offences mentioned in articles 1 and 2 shall entail a penalty of...

ARTICLE 6. - Any person who has manufactured, possessed, exported, imported, transported, sold, transferred or distributed materials or objects knowing that they are destined for the preparation or commission of any of the offences mentioned in articles 1 and 2 shall be liable to a penalty of...

ARTICLE 7. - Any person who has knowingly assisted by any means the person committing any of the offences mentioned in articles 1 and 2 or his accomplices shall be liable to a penalty of...

ARTICLE 8. - If the acts referred to in the preceding articles are committed in different countries, each shall be considered as a separate offence.

VOEU

The Sixth International Conference for the Unification of Penal Law,

Considering that most of the offences referred to in the above articles are particularly dangerous to mankind and are liable to jeopardize good international relations,

Expresses the voeu that, when extradition is not granted, the offenders may be referred to an international criminal court, unless the State to which the request for extradition was addressed prefers to have them tried by its own courts."

Also, the Sixth International Conference adopted a text on political offences which, under the heading "Definition of a political offence at the international level", 1/ included the following provision: "Offences which endanger the community or create a state of terror shall not be deemed to be political."

## II. THE MOVEMENT, IN TREATIES AND OTHER INSTRUMENTS RELATING TO EXTRADITION, TOWARDS THE EXCLUSION OF TERRORISM AND OTHER SERIOUS OFFENCES FROM THE CATEGORY OF POLITICAL OFFENCES

27. Terrorist activities, whether or not they are so labelled, have been dealt with in international instruments concerning extradition, in connexion with provisions regarding political offences. Most extradition instruments contain a clause on that type of offences. Generally, such clauses are to the effect of expressly excluding "political offences" from the category of extraditable offences, 2/ In those clauses, reference is, in some instances, made to the contents of the term "political offence". This is usually done not by positively defining that term but

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1/ Ibid., p. 417.

2/ In some instruments, however, it is left to the discretion of the requested State whether or not to extradite in case of a political offence. Thus, for instance, under the heading "political offences", article 5 of the Harvard Research draft Convention on Extradition provides that "a requested State may decline to extradite.... if the extradition is sought for an act which constitutes a political offence..." (Harvard Law School, Research in International Law, 1 February 1935, part I, Extradition, pp. 22 and 93).



rather by excluding certain specified acts from the category of non-extraditable political offences. 1/ There appear to be mainly three ways of doing so:

(1) By incorporating the so-called "Belgian" or "attentat" clause according to which certain acts against Heads of State or Government shall not be considered

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1/ In some cases, a positive definition of the term political offence has been given. Thus, for instance, under the heading "political offences", article 5 of the Harvard Research draft convention on extradition includes a provision to the effect that "the term 'political offence'... includes... any offence connected with the activities of an organized group directed against the security or governmental system of the requesting State, and it does not exclude other offences having a political objective" (Harvard Law School, Research in International Law, 1 February 1935, part I, Extradition, pp. 22 and 98-99). Also the Inter-American Juridical Committee in the conclusions to its 1959 "Study on Political Offences" prepared pursuant to resolution III of the Fourth Meeting of the Inter-American Council of Jurists, while expressing an opinion contrary to the defining of political offences in a convention, nevertheless felt that the following evaluative factors should be taken into consideration in case the Governments of the Americas would deem it advisable to define or characterize political offences in an international instrument of some kind: "(1) Infractions against the organization or functioning of the State are political offences; (2) Infractions related to the aforementioned violations are also political offences. The relationship exists when the infraction is committed: (1) to carry out, or contribute to the carrying out, of the offences mentioned in point 1; (2) to obtain the impunity given when an offence is of a political nature...." (Inter-American Juridical Committee, Study on Political Offences CIJ-54 Pan American Union, General Secretariat, Organization of American States, Washington D.C., August 1960, p. 29).

Another approach to the matter is that reflected in some extradition instruments which do not include a test or formula for determining what constitutes a political offence but rather leave it to the requested State to decide whether an offence is political or not. Thus, among others, the draft convention on extradition adopted by the Inter-American Council of Jurists at its fourth session in 1959, provides in article 10 that Extradition shall not be granted "when, as determined by the requested State, the offence for which the person is sought is a political offence or an offence related thereto or a common offence committed for political purposes". (Final Act of the Fourth Meeting of the Inter-American Council of Jurists, Santiago, Chile, 24 August-9 September 1959, OAS Official Records, OAS/SER-C/IV.4 CLJ-43, Pan American Union, General Secretariat, Organization of American States, Washington D.C., September 1962, p. 18). Also the "Articles containing the principles concerning extradition of fugitive offenders" formulated by the Asian African Legal Consultative Committee provide in article 3 that "... the requested States shall determine whether the offence is political". (Report of the Asian-African Legal Consultative Committee, Fourth Session, Tokyo, 1961, published by the Secretariat of the Committee, New Delhi, India, 1961, p. 26).

/...

political offences. 1/ Examples of this type of clause may be found in the following instruments:

(a) Agreement on Extradition adopted at Caracas on 18 July 1911 by Ecuador, Peru, Colombia, Bolivia and Venezuela: 2/

"Article 4.... An attack on the life of a Chief of State will not be considered a political offence or an act in connection with it"

(b) Code of Private International Law (Bustamante Code) annexed to the Convention on Private International Law adopted at Havana on 20 February 1928: 3/

"Article 357. Homicide or murder of the head of a contracting State or of any other person who exercises authority in said State, shall not be deemed a political offence nor an act related thereto"

(c) Convention on Extradition adopted at Montevideo on 26 December 1933: 4/

"Art. 3... (e)... An attempt against the life or person of the Chief of State or members of his family, shall not be deemed to be a political offence..."

(d) Central American Extradition Convention adopted at Guatemala City on 12 April 1934: 5/

"Article III... Attempts against the life of the head of a Government or public functionaries... shall not be considered political crimes..."

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1/ As a result of the difference of interpretation of article 6 of the Belgium extradition law of 1 October 1833 which arose among Belgian courts following a request by France for the extradition of some French nationals accused of attempting to blow up a train carrying Napoleon III, the Belgian Parliament enacted a law on the basis of a draft submitted by the Government, adding to article 6 of the law of 1 October 1833 the following provisions: "There shall not be considered as political crime or as an act connected with such a crime an attack upon the person of the head of a foreign government or of the members of his family, when this attack takes the form of either murder, assassination or poisoning." (Annales Parlementaires, Chambre des Représentants, session du 18 décembre 1855, p. 312). The above clause was subsequently included in several bilateral treaties on extradition.

2/ Tratados públicos de Venezuela, vol. II, p. 435.

3/ Final Act, Sixth International Conference of American States, Havana, 1928, pp. 16-88.

4/ Final Act, Seventh International Conference of American States, Montevideo, 1933, pp. 155-167.

5/ Pan American Union, Bulletin, June 1934, vol. 68, No. 6, p. 416.

(e) Treaty on International Penal Law adopted at Montevideo on 19 March 1940: 1/

"Art. XXIII. The taking, or attempted taking, of the life of the Head of a Contracting State shall not be deemed to be a political offence, nor an act related thereto."

(f) European Convention on Extradition adopted at Paris on 13 December 1957: 2/

"Art. 3... 3. The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political offence for the purposes of this Convention..."

(2) By providing that certain specified activities or crimes other than those covered under the Belgian clause shall not constitute political offences. Examples of this kind of approach may be found in the following instruments, which appear to reflect a distinction between social and political forms of terrorism.

(a) Treaty for the Extradition of Criminals and for the Protection against Anarchism, adopted at Mexico City on 28 January 1902: 3/

"Art. 2... There shall not be considered as political offences acts which may be classified as pertaining to anarchism..."

(b) Central American Extradition Convention adopted at Guatemala City on 12 April 1934: 4/

"Art. III... anarchistic attacks shall not be considered as political crimes"

(c) Resolutions on Extradition adopted by the Institute of International Law in 1892: 5/

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1/ Final Act, Second South American Congress of Private International Law, Montevideo, 1940.

2/ European Treaty Series No. 24.

3/ G. Martens, Nouveau Recueil Général de Traités (3rd ser.), p. 185.

4/ Pan American Union, Bulletin, June 1934, vol. 68, No. 6, p. 416.

5/ Resolutions on Extradition consisting of 26 articles were first adopted by the Institute of International Law at its Oxford session on 9 September 1880. Articles 13 and 14 of those resolutions were later revised at the Geneva session of the Institute on 8 September 1892. For the texts see Institut de Droit International, Tableau Général des Résolutions (1873-1956), publié par Hans Wheberg, Bâle 1957, Editions juridiques et sociologiques S.A., pp. 380-384. English text in Scott, Resolutions of the Institute of International Law (1916) pp. 42-45.

"Art. 14. Criminal acts directed against the bases of all social organization, and not only against a certain State or a certain form of government, are not considered political offences in the application of the preceding rules."

(d) Model Draft of an Extradition Treaty prepared in 1931 by a sub-commission of the International Penal and Prison Commission: 1/

"Art. 6... All crimes directed not against a definite State authority but against all State authority shall also be regarded as common crimes"

(e) Draft Convention on Extradition adopted by the Inter-American Council of jurists in 1959: 2/

"Article 10. ... 6. For the purposes of this article, neither genocide, nor in general, crimes against humanity, committed either in time of peace or in time of war, shall be considered political offences"

To this provision, Argentina entered the following reservation: 3/

"The delegation of Argentina understands that serious acts of terrorism are included under crimes against humanity"

(f) Resolutions on Extradition adopted by the Institute of International Law: 4/

"Article 13... 3. So far as concerns acts committed in the course of an insurrection of a civil war by one of the parties engaged in the struggle and in the interest of its cause, they cannot give occasion to extradition unless they are acts of odious barbarity or vandalism forbidden by the laws of war, and then only when the civil war is at an end."

(g) Model Draft of an Extradition Treaty prepared in 1931 by a sub-commission of the International Penal and Prison Commission: 5/

"Article 6... murder and attempted murder of other persons than the Head of a State shall also not be so regarded if they are committed with special barbarity or cruelty"

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1/ Recueil de Documents en matière Pénale et Pénitentiaire, 1931, vol. 1, p. 478.

2/ Final Act of the Fourth Meeting of the Inter-American Council of Jurists, Santiago, Chile, 24 August-9 September 1959, OAS Official Records OAS/SER-C/IV.4 CIJ-43, Pan American Union, General Secretariat, Organization of American States, Washington D.C., September 1962, p. 18.

3/ Ibid., p. 78.

4/ See foot-note 5/, p. 19 above.

5/ See foot-note 1/ above.

(h) Conclusions adopted by the Inter-American Juridical Committee in its 1959 Study on Political Offences: 1/

"... (3) Acts of brutality and vandalism and, in general violations of any kind that exceed the legal limits of attack and defense are not political offences"

(3) By including a clause to the effect that an offence in which the common crime element predominates is not a political offence. Examples of this kind of approach may be found in the following instruments:

(a) Resolutions on Extradition adopted by the Institute of International Law: 2/

"Art. 13 ... 2. Nor can (extradition) be admitted for unlawful acts of a mixed character or connected with political crimes or offences, also called relative political offences, unless in the case of crimes of greater gravity from the point of view of morality and of the common law, such as murder, manslaughter, poisoning, mutilation, grave wounds inflicted wilfully with premeditation, attempts at crimes of that kind, outrages to property by arson, explosion or flooding, and serious thefts, especially when committed with weapons and violence."

(b) Draft Extradition Convention approved in 1928 by the International Law Association: 3/

"Article 7... Nevertheless the extradition of a person accused or convicted of a crime involving the loss of human life or grievous bodily harm... shall be accorded notwithstanding the political character of the crime alleged"

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1/ CIJ-54 Pan American Union, General Secretariat, Organization of American States, Washington D.C., August 1960, p. 29.

2/ See foot-note 5/, p. 19 above.

3/ International Law Association, Report of the Thirty-fifth Conference (1928), pp. 324-329.

III. INTERNATIONAL INSTRUMENTS RELATING TO THE  
PREVENTION AND PUNISHMENT OF TERRORISM:  
THEIR IMMEDIATE ORIGIN AND THEIR GENERAL  
METHODOLOGY

28. The conventions or other international instruments which form the subject of the present section deal directly or indirectly with terrorism or include specific provisions relating to this question. For the sake of convenience of presentation, and having regard to the fact that some of them are of identical origin, they will be grouped according to the international organizations under whose auspices they were concluded or drawn up.

A. Convention for the Prevention and Punishment of  
Terrorism concluded at Geneva under the auspices  
of the League of Nations on 16 November 1937

29. Following the assassination at Marseilles, on 9 October 1934, of King Alexander I of Yugoslavia and Mr. Louis Barthou, President of the Council of the French Republic, the Yugoslav Government submitted to the Council of the League of Nations, under Article 11, paragraph 2, of the Covenant, a request for an investigation, accusing a foreign Government of complicity. By a letter of 9 December 1934, the French Government transmitted to the Council of the League of Nations a memorandum containing general principles to serve as a basis for the conclusion of an international convention for the repression of crimes committed with a "political and terrorist" purpose. 1/ On 10 November 1934, the Council of the League of Nations unanimously adopted a resolution submitted by the representative of the United Kingdom of Great Britain and Northern Ireland, whereby it decided to set up a committee of experts to draw up a preliminary draft of an international convention to assure the repression of conspiracies or crimes committed with a "political and terrorist" purpose. The composition of the committee of experts was determined by this resolution, from which the following excerpts are quoted: 2/

"The Council

Recalls, that it is the duty of every State neither to encourage nor tolerate on its territory any terrorist activity with a political purpose;

That every State must do all in its power to prevent and repress acts of this nature and must for this purpose lend its assistance to Governments which request it:

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1/ League of Nations, Official Journal, 1934, p. 1839.

2/ Ibid., p. 1759.

...

The Council,

Considering that the rules of international law concerning the repression of terrorist activity are not at present sufficiently precise to guarantee efficiently international co-operation in this matter:

Decides to set up a committee of experts to study this question with a view to drawing up a preliminary draft of an international convention to assure the repression of conspiracies or crimes committed with a political and terrorist purpose;

Decides that this committee shall be composed of eleven members, the Governments of Belgium, Chile, the United Kingdom, France, Hungary, Italy, Poland, Romania, Union of Soviet Socialist Republics, Spain and Switzerland, each being invited to appoint a member;

Refers to this committee for examination the suggestions which have been presented to the Council by the French Government, and request other Governments which may wish to present suggestions to send them to the Secretary-General, so that they may be examined by the committee;

Invites the committee to report to the Council, so that the latter may apply the procedure laid down in the resolution of the Assembly of 25 September 1931, concerning the drawing up of general conventions negotiated under the auspices of the League of Nations."

30. In accordance with this resolution, the committee of experts first held two sessions in 1935 and 1936 respectively and adopted a preliminary draft convention for the prevention and punishment of terrorism and a preliminary draft convention for the creation of an international criminal court. 1/ On 10 October 1936, the Assembly of the League of Nations adopted the following resolution: 2/

"The Assembly,

Having taken cognizance of the second report of the Committee for the International Repression of Terrorism and of the two draft Conventions annexed thereto (document A.7.1936.V);

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1/ League of Nations, document A.7.1936.V.

2/ League of Nations, Records of the Seventeenth Ordinary Session of the Assembly. Plenary Meetings, p. 135.

/...

Recognizing the utility for the consolidation of peace of the conclusion of a convention for the prevention and punishment of terrorism:

Considering, however, that the replies of the Governments regarding the draft drawn up by the Committee (documents A.24.1936.V and A.24(a).1936.V) and the discussions in the First Committee have shown that certain Governments feel doubts which it is desirable to remove:

Expresses the view that the contemplated convention, founding itself upon the principle that it is the duty of every State to abstain from any intervention in the political life of a foreign State, should have as its principal objects:

(1) To prohibit any form of preparation or execution of terrorist outrages upon the life or liberty of persons taking part in the work of foreign public authorities and services;

(2) To ensure the effective prevention of such outrages and, in particular, to establish collaboration to facilitate early discovery of preparations for such outrages;

(3) To ensure punishment of outrages of a terrorist character in the strict sense of the word which have an international character either in virtue of the place in which preparations for them were made or the place in which they were carried out, or in virtue of the nationality of those participating in them or their victims;

Notes that certain Governments have disputed the advisability of creating an international criminal court, but that the trial of persons guilty of such outrages by such a court is felt by other Governments to constitute an alternative which, in certain cases, would be preferable to extradition or to prosecution, and that on this ground the second convention has been regarded by the latter Governments as valuable, even if it is not capable of securing general acceptance:

Recommends that the Committee revise its conclusions regarding its two drafts in the light of the observations to be found in the Governments' replies or formulated in the course of the debates, in order that the Council may convene a diplomatic conference in 1937."

31. The committee of experts held a third session, in 1937, during which it revised in accordance with the above resolution of the Assembly the preliminary draft conventions, which were submitted to an international Conference, convened at Geneva from 1 to 16 November 1937 by a decision of the Council of the League of Nations taken on 27 May 1937. On the basis of these two preliminary drafts, the Conference on 16 November 1937 adopted two Conventions, one for the prevention and punishment of terrorism and the other for the creation of an international criminal court. 1/

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1/ League of Nations, Proceedings of the International Conference on the Repression of Terrorism, 1937, document C.94.M.47.1938.V.



32. The Convention for the Prevention and Punishment of Terrorism <sup>1/</sup> "reaffirms", in article 1, paragraph 1, "the principle of international law in virtue of which it is the duty of every State to refrain from any act designed to encourage terrorist activities directed against another State and to prevent the acts in which such activities take shape". It defines the concept of terrorism and stresses its political character. Article 1, paragraph 2, gives a descriptive and abstract definition of this concept and states in general terms the characteristics of terrorism. It defines as "acts of terrorism" criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons, or a group of persons or the general public. This definition precedes and serves as the criterion for a list of specific acts of terrorism, which are enumerated restrictively in article 2. The Convention imposes an obligation on each State party to make the acts listed criminal offences if they are committed on its territory against another State party and if they constitute acts of terrorism within the meaning of article 1, paragraph 2. Each State party has the obligation also to designate as criminal offences acts of complicity (conspiracy, direct public incitement, participation, etc.) committed on its territory against another State party, whatever the country in which the act of terrorism is to be carried out (article 3). In article 14, the Convention calls for the punishment of certain acts connected with an act of terrorism but does not make them subject to the same rules of punishment as are laid down for the offences mentioned in articles 2 and 3. The Convention establishes an extradition régime whereby such offences are to be included as extraditable crimes in any extradition treaty which has been or may subsequently be concluded between any of the States parties (article 8). It imposes on States parties the obligation either to extradite or to bring to trial any individual who commits a terrorist offence, thus confirming the traditional rule aut dedere aut punire to cover cases where the individual whose prosecution is sought is a national of the State to which application is made and the latter does not recognize the principle of the extradition of nationals (article 9), as well as cases involving foreigners (article 10). The Convention also contains provisions concerning co-operation between national police authorities (articles 15 and 16) and co-operation between judicial authorities (article 17). It does not affect the principle that, provided the offender is not allowed to escape punishment owing to an omission in the criminal law, the characterization of the various offences dealt with in the Convention, the imposition of sentences, the methods of prosecution and trial, and the rules as to mitigating circumstances, pardon and amnesty are determined in each country by the provisions of domestic law (article 19).

B. Instruments elaborated or in the process of elaboration within the United Nations

33. The instruments in question were elaborated or are still in the process of elaboration in the course of the work carried out by the United Nations on the

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<sup>1/</sup> For the text and status of this Convention, see annex I.

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codification and progressive development of international law or on the maintenance of international peace and security.

1. Draft code of offences against the peace and security of mankind, prepared by the International Law Commission at its sixth session, in 1954

34. In its resolution 177 (II) of 21 November 1947 on the formulation of the principles recognized in the Charter of the Nuremberg Tribunal and in the judgement of the Tribunal, the General Assembly entrusted the International Law Commission with the task of preparing a draft code of offences against the peace and security of mankind. The draft code, 1/ prepared in 1954 by the International Law Commission in pursuance of that resolution, deals with terrorism in article 2, paragraph 6, under which "the undertaking or encouragement by the authorities of a State of terrorist activity in another State, or the toleration by the authorities of a State of organized activities calculated to carry out terrorist acts in another State" is declared to be an offence against the peace and security of mankind, and therefore, according to article 1, a crime "under international law". In the commentary on this article, the International Law Commission, after recalling that "Article 1 of the Convention for the Prevention and Punishment of Terrorism of 16 November 1937 contained a prohibition of the encouragement by a State of terrorist activities directed against another State", went on to observe that "the offence defined in this paragraph can be committed only by the authorities of a State. A criminal responsibility of private individuals under international law may, however, arise under the provisions of paragraph (12) of the present article covering conspiracy, direct incitement, attempted offences and complicity".

35. It should be noted that, at the time of the preparation of the draft code, the Secretariat submitted to the International Law Commission a Memorandum, part III of which, concerning the various international offences which should be included in the code, contains the following paragraphs under the heading "Acts of terrorism affecting international relations": 2/

122. Under the Code it should be a punishable act to incite, encourage or tolerate activities designed to spread terror among the population in the territory of another State. These activities might take the form either of attempts on the life of persons charged with public functions or holding public positions or against public property or of crimes which create a common danger and imperil the lives of any part of the population.

The problem for all practical purposes is to find a formula applicable to the serious offences dealt with in the Convention for the Prevention and Punishment of Terrorism, which was opened for signature at Geneva on 16 November 1937 under the auspices of the League of Nations.

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1/ Yearbook of the International Law Commission, 1951, vol. II, p. 134 and 1954, vol. II, p. 150.

2/ Yearbook of the International Law Commission, 1950, vol. II, p. 340; document A/CN.4/29, p. 157, 159.

...

It might be possible to adopt some broader formulas covering all offences directed against the security of one State which involve either action or wilful encouragement or tolerance on the part of another State.

...

36. It may be well to recall that, in its resolution 1186 (XII) of 11 December 1957, the General Assembly decided to transmit the text of the draft Code to Member States for comment, and to defer consideration of the question until such time as it again took up the question of defining aggression. The attention of Member States was drawn to the draft Code when, at its twenty-third session (1968), the General Assembly again took up the question of defining aggression. However, the General Committee decided that it was not desirable at that stage, prior to the completion of the Assembly's consideration of the question of defining aggression, for the draft Code to be included in the agenda of the General Assembly, and that it should be taken up at a later session when further progress had been made in arriving at a generally agreed definition of aggression. 1/

2. Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, approved by the General Assembly in resolution 2625 (XXV) of 24 October 1970

37. On 24 October 1970, the General Assembly, by resolution 2625 (XXV), approved a Declaration based on the work of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which had met from 1963 to 1970. In the preamble to this resolution, the General Assembly declared itself to be "deeply convinced" that the adoption of the Declaration "would contribute to the strengthening of world peace and constitute a landmark in the development of international law and of relations among States, in promoting the rule of law among nations and particularly the universal application of the principles embodied in the Charter". The Declaration contains a provision concerning terrorism, included in the section entitled "The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations." Another provision concerning terrorism appears in the section entitled "The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter". The text of these two provisions, and of the other provisions which are applicable to them or to the Declaration as a whole, will be found below:

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1/ General Assembly Official Records: Twenty-third session, Annexes, agenda item 87, A/BUR/171, para. 4 and A/7250, para. 10.

/...

The General Assembly,

...

1. Solemnly proclaims the following principles:

The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

...

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

...

Nothing in the foregoing paragraph shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

...

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter.

...

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State.

...

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

...

/...

2. Declares that:

In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.

...

3. Declares further that:

The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

3. Declaration on the Strengthening of International Security, incorporated in General Assembly resolution 2734 (XXV) of 16 December 1970

38. In this Declaration, the General Assembly, recalling, inter alia, "the determination of the peoples of the United Nations, as proclaimed by the Charter, to save succeeding generations from the scourge of war, and to this end to live together in peace with one another as good neighbours and to unite their strength to maintain international peace and security",

"Solemnly reaffirms that every State has the duty to refrain from the threat or use of force against the territorial integrity and political independence of any other State, and that the territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter, that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, that no territorial acquisition resulting from the threat or use of force shall be recognized as legal and that every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State."

4. Report of the Special Committee on the Question of Defining Aggression established pursuant to General Assembly resolution 2330 (XXII) of 18 December 1967

39. The report of the Special Committee on the Question of Defining Aggression on the work of its 1972 session reproduces some draft definitions submitted to the Committee which deal with terrorism. Operative paragraph 2C of the draft definition submitted by the Union of Soviet Socialist Republics reads as follows: 1/

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1/ Report of the Special Committee on the Question of Defining Aggression, 31 January-3 March 1972, General Assembly Official Records, Twenty-seventh Session, Supplement No. 19 (A/8719), p. 8.

"C. The use by a State of armed force by sending armed bands, mercenaries, terrorists or saboteurs to the territory of another State and engagement in other forms of subversive activity involving the use of armed force with the aim of promoting an internal upheaval in another State or a reversal of policy in favour of the aggressor shall be considered an act of indirect aggression."

40. Operative paragraph 7 of the draft definition submitted by Colombia, Cyprus, Ecuador, Ghana, Guyana, Haiti, Iraq, Madagascar, Mexico, Spain, Uganda, Uruguay and Yugoslavia reads as follows: 1/

"7. When a State is a victim in its own territory of subversive and/or terrorist acts by irregular, volunteer or armed bands organized or supported by another State, it may take all reasonable and adequate steps to safeguard its existence and its institutions, without having recourse to the right of individual or collective self-defence against the other State under Article 51 of the Charter."

41. According to operative paragraph IV of the draft definition submitted by Australia, Canada, Italy, Japan, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

"The uses of force which may constitute aggression include... a use of force by a State.... By such means as.... (7) Organizing, supporting or directing violent civil strife or acts of terrorism in another State.... 2/

5. Draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons, prepared by the International Law Commission at its twenty-fourth session, in 1972

42. These draft articles are the subject of chapter III of the report of the International Law Commission on the work of its twenty-fourth session (A/8710), which has just been considered by the Sixth Committee. This report which traces the history of the draft articles in paragraphs 54 to 59, summarizes the International Law Commission's debate on the problem of terrorism as follows:

"60. In the course of the general discussion the question was raised whether the Commission should limit itself to draft articles covering persons entitled to special protection under international law. Terrorism had become widespread and many innocent people had suffered thereby. It might be better to follow the examples of the Hague and Montreal Conventions and seek to provide some means of protection against terrorist acts generally.

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1/ Ibid., p. 10.

2/ Ibid., pp. 11 and 12.

Other members queried whether a convention of the nature envisaged would be really useful in providing protection. In this connexion the fact that the League of Nations Convention for the Prevention and Punishment of Terrorism of 16 November 1937 had not been ratified by any States was referred to. The majority of speakers expressed the view, however, that the question of the utility as well as the scope of draft articles on the subject, had been determined by resolution 2780 (XXVI) of the General Assembly."

...

"65. In accordance with the mandate contained in paragraph 2 of section III of General Assembly resolution 2780 (XXVI) of 3 December 1971... the scope of the present draft is restricted to crimes committed against diplomatic agents and other persons entitled to special protection under international law. The Commission, however, recognizes that the question of crimes committed against such persons is but one of the aspects of a wider question, the commission of acts of terrorism. The elaboration of a legal instrument with the limited coverage of the present draft is an essential step in the process of formulation of legal rules to effectuate international co-operation in the prevention, suppression and punishment of terrorism. The overall problem of terrorism throughout the world is one of great complexity but there can be no question as to the need to reduce the commission of terrorist acts even if they can never be completely eliminated. The General Assembly may consider it important to give consideration to this general problem."

/...

C. Conventions concluded under the auspices of the International  
Civil Aviation Organization

43. Obviously, these Conventions do not deal directly with terrorism. They contain no express provisions on that subject. However, acts falling within the scope of these Conventions are often committed in a manner presenting the same characteristics as the notion of terrorism as conceived and defined in the 1937 Geneva Convention for the Prevention and Punishment of Terrorism.

44. During the past decade, acts endangering international civil aviation have become alarmingly more numerous and widespread. They have sometimes been accompanied by the taking of hostages and have also caused the loss of innocent human lives. Highly diverse methods involving violence and terror have been used, undermining world confidence in air transport and inspiring fear and insecurity in a large segment of the public: air crews, passengers and personnel servicing aircraft and other facilities and installations used for civil air transport. In many cases, such acts have been committed by persons prompted by political motives.

45. These facts have led to international action to prevent and punish acts directed against international civil aviation. In less than seven years this action has resulted in the conclusion of three successive conventions which complement each other in order to cope with the constant and rapid development of the threat to international civil aviation. The first international convention - the Convention on Offences and Certain other Acts Committed on Board Aircraft - was signed at Tokyo as early as 14 September 1963, at a time when that development had not yet reached such an alarming stage.

1. Convention on offences and certain other acts  
committed on board aircraft, signed at Tokyo  
on 14 September 1963

46. This convention, 1/ which in articles 3 and 4 defines the jurisdiction of States parties in the event that offences and other acts are committed on board aircraft, deals with the problem of unlawful seizure of aircraft in articles 11 and 13 only. These articles are not, however, in any way concerned with suppression; they impose upon States parties certain obligations concerning the return of a hijacked aircraft and its cargo and the release of the passengers and crew.

2. Convention for the suppression of unlawful seizure of  
aircraft, signed at The Hague on 16 December 1970

47. In September 1968, the Assembly of the International Civil Aviation Organization adopted resolution A16-37 in which it urged all States to become parties as soon as possible to the Tokyo Convention and requested the Council of

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1/ For the text and the status of this Convention, see annex II.



the organization, at the earliest possible date, to institute a study of other measures to cope with the problem of unlawful seizure of aircraft. In December 1968, the Council, after considering the above-mentioned resolution, decided to refer the question to the Legal Committee. On the basis of a draft Convention drawn up by a sub-committee, the Legal Committee prepared a draft Convention on the unlawful seizure of aircraft, which the Council decided in March 1970 to submit for study and approval to an international conference of plenipotentiaries convened at The Hague in December 1970. On 16 December 1970, this conference adopted the Convention for the Suppression of Unlawful Seizure of Aircraft.

48. It should be recalled that, before the adoption of that Convention, the United Nations General Assembly had dealt, during its twenty-fourth session in 1969, with the problem of "forcible diversion of civil aircraft in flight". It had adopted resolution 2551 (XXIV), in which it stated that it was "deeply concerned" over acts of unlawful interference with international civil aviation, and considered it necessary to recommend effective measures against hijacking in all its forms, or any other unlawful seizure or exercise of control of aircraft. It also urged "full support for the efforts of the International Civil Aviation Organization directed towards the speedy preparation and implementation of a convention providing for appropriate measures, *inter alia*, with respect to making the unlawful seizure of civil aircraft a punishable offence and to the prosecution of persons who commit that offence". The Security Council, for its part, had on 9 September 1970 adopted resolution 286 (1970), in which it stated that it was "gravely concerned at the threat to innocent civilian lives from the hijacking of aircraft and any other interference in international travel"; it also called on States "to take all possible legal steps to prevent further hijackings or any other interference with international civil air travel".

49. The 1970 Hague Convention 1/ defines the offence which it is intended to cover; it refers to the offence committed by any person who on board an aircraft in flight, unlawfully, by force or threat thereof, seizes or exercises control of that aircraft (article 1). It obliges States parties to make the offence thus defined punishable by severe penalties (article 2). Article 3 specifies the scope of the Convention, which is limited to cases in which an international element is involved. Article 4 establishes the cases in which States parties are required to establish their jurisdiction over the offence and, as a subsidiary point, adopts the principle of universal jurisdiction in order to ensure that suppression of the offence is universal. Article 7 obliges the State party in the territory of which the alleged offender is found, if it does not extradite him, to submit the case "without exception whatsoever" to its competent authorities for the purpose of prosecution. The system of extradition established by the Convention is dealt with in article 8, which states that the unlawful seizure of aircraft is "deemed to be included" in any extradition treaty existing between States parties and which also obliges States parties to include the offence as an extraditable offence in every extradition treaty to be concluded between them. Lastly, the Convention contains provisions obliging States parties to afford one another judicial assistance in any criminal proceedings brought in respect of the offence (article 10) and to report to the Council of the International Civil Aviation Organization any relevant information in their possession (article 11).

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1/ For the text and status of this Convention, see annex III.

3. Convention for the suppression of unlawful acts against the safety of civil aviation, signed at Montreal on 23 September 1971

50. In June 1970, even before the Hague Convention was concluded, the Assembly of the International Civil Aviation Organization adopted resolution A17-20, in which it noted that it was necessary "to adopt provisions additional to those of international agreements in force", and directed the Council of ICAO to convene the Legal Committee in order to prepare, as a matter of first priority, a draft convention on acts of unlawful interference against international civil aviation (other than those covered by the draft convention on unlawful seizure of aircraft). The Legal Committee drew up the text of a draft convention, and in November 1970 the Council decided to transmit it for examination and approval to a conference of plenipotentiaries convened in Montreal in September 1971. On 23 September 1971, this conference adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

51. While the Convention was being drafted, the General Assembly of the United Nations at its twenty-fifth session, in 1970, took up the problem of "aerial hijacking or interference with civil air travel". On 25 November 1970 it adopted resolution 2645 (XXV) condemning "without exception whatsoever, all acts of aerial hijacking or other interference with civil air travel, whether originally national or international, through the threat or use of force, and all acts of violence which may be directed against passengers, crew and aircraft engaged in, and air navigation facilities and aeronautical communications used by, civil air transport". The Assembly called upon States "to take all appropriate measures to deter, prevent or suppress such acts within their jurisdiction, at every stage of the execution of those acts, and to provide for the prosecution and punishment of persons who perpetrate such acts, in a measure commensurate with the gravity of those crimes, or, without prejudice to the rights and obligations of States under existing international instruments relating to the matter, for the extradition of such persons for the purpose of their prosecution and punishment". The Assembly further declared that "the exploitation of unlawful seizure of aircraft for the purpose of taking hostages is to be condemned". It called upon States "to take joint and separate action, in accordance with the Charter, in co-operation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation are not used as a means of extorting advantage of any kind".

52. The Montreal Convention of 1971 <sup>1/</sup> establishes a system of suppression which in outline is the same as that laid down in the 1970 Hague Convention. The basic distinguishing feature of the latter is that it is concerned only with the problem of hijacking of aircraft as such. In article 1, using the descriptive definition procedure, it indicates the constituent elements of the offence it is concerned to suppress. It covers "Any person who on board an aircraft in flight unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft". Thus the Convention only protects the aircraft where it is "in flight", the expression being defined in article 3. Moreover,

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<sup>1/</sup> For the text and status of this Convention, see annex IV.

it only protects the aircraft in flight if it is the object of an act of seizure, and indeed the act is only defined as an offence where it is committed by a person on board the aircraft itself. Thus the Convention excludes from its field of application a whole category of other acts calculated to produce effects which are at least as dangerous for the safety of civil aviation. These acts are precisely the subject of the Montreal Convention, which in article 1 gives a restrictive list of such acts. Thus this Convention covers a series of acts, mostly committed on the ground, which cause the destruction of an aircraft "in service" - an expression defined in article 2 - or which are likely to endanger its safety in flight. It also includes a special provision requiring that Contracting States "shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned" (article 10).

D. Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance, concluded at Washington on 2 February 1971 under the auspices of the Organization of American States

53. At a meeting held on 15 May 1970, the Permanent Council of the Organization of American States (OAS) on the basis of a report submitted by its Legal-Political Committee 1/ approved a resolution concerning the taking of action to condemn acts of terrorism and kidnapping of persons. That resolution, inter alia, condemned acts of terrorism and in particular the kidnapping of persons and extortion in connexion therewith as crimes against humanity. 2/

54. Pursuant to a recommendation adopted by the Permanent Council in that same resolution, the Preparatory Commission of the General Assembly of the OAS included in the provisional agenda of the Assembly's first special session an item concerning the "general action and policy of the Organization with regard to acts of terrorism and, especially, the kidnapping of persons and extortion in connexion with that crime".

55. Earlier in 1970, at its twenty-third session held in April, the Inter-American Commission on Human Rights had adopted a resolution 3/ concerning terrorism for political or ideological purposes, in which it condemned acts of political terrorism and urban or rural guerrillas as being grave violations of human rights and fundamental freedoms.

56. At its 6th plenary meeting held on 30 June 1970, the General Assembly of the OAS adopted a resolution 4/ entitled "General Action and Policy of the Organization

1/ OAS/Official Documents/Ser.G.; CP/Doc. 19/70 Rev.1, Corr.1.

2/ Resolution CP/RES.5 (7/70) OAS/Official Documents/Ser.G.

3/ OAS/Ser.L/V/II.23, Doc. 19, Rev.1. 23 April 1970. See also OAS/Official Documents/Ser.P., Ag/Doc. 18 19 June 1970.

4/ Resolution AG/RES.4 (I/70) Rev.1. OAS/Official Records/Ser.P.

with regard to acts of Terrorism and, especially, the Kidnapping of Persons and extortion in connexion with that Crime". The text of the resolution was as follows:

"WHEREAS:

Acts of terrorism, and especially kidnapping of persons and extortion connected with that crime, are occurring with increasing frequency and seriousness in this hemisphere;

Such acts have been characterized by the Permanent Council of the Organization, in its resolution of 15 May 1970, as such cruel and irrational crimes that they attack the very spirit of mercy of the American peoples and constitute common crimes, whose seriousness makes them crimes against humanity;

The Governments of the member States of the Organization unanimously repudiate such acts, which constitute serious violations of the fundamental rights and freedoms of man; and those Governments are firmly determined to prevent the repetition of such acts;

The political and ideological pretexts utilized as justification for these crimes in no way mitigate their cruelty and irrationality or the ignoble nature of the means employed, and in no way remove their character as acts in violation of essential human rights.

The member States of the Organization, in the exercise of their sovereignty and their territorial jurisdiction, have invariably reaffirmed the rights of the individual and the principles of universal morality;

The process of economic development and the social progress of the hemisphere, in which our Governments are engaged not only directly but also through inter-American co-operation, are disturbed by the crimes in question;

Kidnapping and extortion connected with that crime, as well as offences against the lives of representatives of foreign States and of other persons, are heinous crimes that have aroused world opinion and that shatter the very bases of friendly national and international relations; and

The proliferation of such crimes in the hemisphere creates a situation that requires prompt and effective measures on the part of the Organization and of its member States,

THE GENERAL ASSEMBLY

RESOLVES:

1. To condemn strongly, as crimes against humanity, acts of terrorism and especially the kidnapping of persons and extortion in connexion with that crime.

2. Also to condemn such acts, when perpetrated against representatives of foreign States, as violations not only of human rights but also of the norms that govern international relations.

3. To declare that these acts constitute serious common crimes characterized by flagrant violation of the most elemental principles of the security of the individual and community as well as offences against the freedom and dignity of the individual, the safeguarding of which should be a guiding criterion of every society.

4. To recommend to the member States that have not yet done so that they adopt such measures as they may deem suitable, in the exercise of their sovereignty, to prevent and when appropriate to punish crimes of this kind, defining them in their legislation.

5. To request the Governments of the member States to facilitate, in accordance with their laws, the exchange of information that will help in the prevention and punishment of crimes of this kind.

6. To charge the Inter-American Juridical Committee with preparing an opinion on the procedures and measures necessary to make effective the purposes of this resolution. To this end, the Committee shall conclude the work entrusted to it within 60 days of the closing date of this session of the General Assembly. The Committee shall conclude the work entrusted to it within 60 days of the date on which it meets for that purpose.

7. Also to charge the Inter-American Juridical Committee with preparing, within the period set in the preceding paragraph, one or more draft inter-American instruments on kidnapping, extortion, and assaults against persons, in cases in which these acts may have repercussions on international relations.

8. To request the Inter-American Juridical Committee to report on its work to the Permanent Council of the Organization, which may, on an urgent basis, convoke a special session of the General Assembly or order the holding of an inter-American specialized conference to consider the opinion and the draft or drafts prepared by that Committee.

#### THE GENERAL ASSEMBLY

EXPRESSES its adherence to the principles set forth in the American Declaration of the Rights and Duties of Man and in the economic and social standards of the Charter of the Organization of American States."

57. Pursuant to the foregoing resolution, the Inter-American Juridical Committee held a special meeting from 31 August to 6 October 1970 during which it prepared the following documents: 1/ (a) an Opinion; (b) a draft resolution; (c) a Draft Convention on Terrorism and Kidnapping of Persons for Purposes of Extortion;

and (d) a Statement of Reasons for that draft. These documents, together with explanations by members of the Committee of their votes on the Opinion and Draft Convention were transmitted to the Permanent Council of the OAS. In its Opinion, the Inter-American Juridical Committee states, *inter alia*, that it considered it necessary for the competent organs of the OAS "to undertake as soon as possible a study of the social, economic, educational, and cultural causes that may influence the generation of climates of violence in which outbursts of terrorism are bred".

58. The Permanent Council of the OAS, by a resolution adopted on 9 December 1970 1/ on the basis of a report submitted by the General Committee 2/ decided to submit the documents prepared by the Inter-American Juridical Committee to the General Assembly of the OAS for consideration. At its meeting held on 5 January 1971, the Permanent Council further decided to convoke the General Assembly of the OAS for its third special session to consider those documents. 3/ Also, by a resolution adopted on 14 January 1971 4/ the Council decided to submit to that session of the Assembly a report prepared by the General Committee containing observations on the documents adopted by the Inter-American Juridical Committee. 5/

59. The third special session of the OAS General Assembly met at Washington from 25 January to 2 February 1971 and adopted a "Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance". 6/ The main features of the Convention may be summarily described as follows. To a large extent, the Convention embodies the guidelines set out in the resolution of the General Assembly of the OAS on general action and policy with regard to acts of terrorism (see para. 56 above). The Convention, although establishing in article 1 a duty for States Parties to co-operate in the prevention and punishment of "acts of terrorism",

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1/ Resolution CP/Res.22 (30/70) OAS/Official Records/Ser.G.

2/ CP/Doc.61/70 Rev.1 OAS/Official Records/Ser.G.

3/ Resolution CP/Res.25 (33/71) OAS/Official Records/Ser.G.

4/ Resolution CP/Res.26 (34/71) OAS/Official Records/Ser.G.

5/ CP/Doc.69/71 Rev.1 OAS/Official Records/Ser.G. The preparation of observations had been approved by resolution CP/Res.22 (30/70) of 9 December 1970.

6/ Treaty Series, No. 37 OAS/Ser.A/17 OAS/Official Documents. For the text and status of this Convention, see annex V.

does not in fact deal with terrorism as a whole. 1/ It extends only to certain terrorist acts further characterized in article 2 as common crimes of international significance, namely: kidnapping, murder and other assaults against the life or personal integrity of those persons to whom the State has the duty to give special protection according to international law, as well as extortion in connexion with those crimes. The Convention aims at protecting a certain category of persons, namely, those to whom the State has the duty to give special protection according to international law without specifying them nor setting out standards or criteria for their determination. The Convention, which is based on the principle aut dedere aut judicare, contains detailed provisions concerning extradition (articles 3, 5 and 7) and, of those cases where extradition will not be granted, it establishes the duty for a State to submit the case to its competent authorities for the purpose of prosecution as if the act had been committed in its territory. A specific provision is included in article 6 to safeguard the right of asylum and a number of concrete obligations are set out in article 8 to effectuate the general duty of co-operation in the prevention and punishment of the crimes covered. Finally, under the terms of article 9, the Convention is open to participation by States other than those which are members of the OAS.

60. Also at its Third Special Session, the General Assembly of the OAS approved an Instruction to the Permanent Council of the organization to study matters pertaining to terrorism, assaults against persons, and extortion relating to those crimes. 2/ In that Instruction, the Assembly resolved to suggest to the member States of the organization that they examine, with non-member States interested in the question, the possibility of adherence by the latter to the Convention or that they take appropriate measures toward the adoption of a world Convention in that connexion.

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1/ The draft convention prepared by the Inter-American Juridical Committee, although placing the emphasis on coverage of certain terrorist acts, nevertheless included in article 4 a provision defining acts of terrorism in general. The text of that provision is as follows:

"For the purposes of this Convention, an act shall be considered an act of terrorism when it is defined or expressly classified as such by the law of the State in whose territory the act was committed and by the law of the State in whose territory the person who has been indicted or sentenced for that act is located. If the legislation of any of the contracting States does not contain the definition or classification referred to in the preceding paragraph, for the purposes of this Convention, and regardless of the legal terminology the national laws may use to describe them, the following shall be considered to be acts of terrorism: those that produce terror or intimidation among the inhabitants of a State or sector of the inhabitants thereof and create a common threat to the life, health, physical integrity, or freedom of persons by the employment of a method or device that by its nature can cause, or does cause, great damage, a serious disturbance of public order, or a public calamity, or by the taking over, the violent seizure, or the wrecking of a ship, aircraft, or other means of collective transport." (CP/Doc.54/70 Rev.1 OAS/Official Records/Ser.G).

2/ AG/Doc.90, 2 February 1971, OAS/Official Records/Ser.P.

#### IV. GENERAL CONCLUSION

61. From the review in the second chapter of this study, it will have been seen that not only has terrorism been the subject of a number of studies and actions at the international level, but several Conventions aimed directly or indirectly at the suppression of certain acts of terrorism have been concluded. Two of these Conventions have expressly dealt with terrorism and two with actions endangering civil aviation.

62. Of the first two, the Convention for the Prevention and Punishment of Terrorism, drawn up under the League of Nations, and open for signature at Geneva on 16 November 1937, while covering a broader range, was primarily motivated and oriented towards the protection of Heads of State and other public figures. It obtained only one ratification and is not among those treaties of which the League was depositary with respect to which the United Nations has taken any action. It would seem from these circumstances that this Convention has been deemed obsolete.

63. The second Convention, dealing expressly with terrorism - the Convention to Prevent and Punish the Acts of Terrorism taking the Form of Crimes against Persons and Related Extortion that are of International Significance, opened for signature at Washington on 2 February 1971 - was prepared by a regional organization, the Organization of American States. It is, however, open to participation by States outside of the region. This Convention is aimed at preventing acts of terrorism against "those persons to whom the state has the duty according to international law to give special protection".

64. Of the other Conventions drawn up under the auspices of ICAO which have an indirect relevance, The Hague Convention of 16 December 1970 for the Suppression of Unlawful Seizure of Aircraft deals with "hi-jacking", while the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation deals with acts other than "hi-jacking". ICAO has also under consideration the drafting of a further Convention concerning enforcement of obligations. Each of these, of course, is limited to the field of civil aviation and does not deal with terrorism as such, but does aim at the protection of innocent passengers and crew against acts which may fall within the scope of terrorism. The earlier Tokyo Convention of 14 September 1963 on Offences and Certain Other Acts Committed on Board Aircraft has only brief provisions on the unlawful seizure of aircraft.

65. With the exception of the Tokyo and The Hague Conventions none of these Conventions have as yet entered into force, nor does any of them deal comprehensively with protection of innocent human lives from international terrorism.

66. It is clear from the foregoing study that the origins and underlying causes of terrorism are complex and various, but that many of them lie in international political or social situations which the United Nations was founded to improve.

/...



The effort to eliminate those causes should be intense and continuous, as mankind, despite its intellectual powers, has not yet succeeded in creating a social order free from misery, frustration, grievance and despair - in short, an order which will not cause or provoke violence. Yet terrorism threatens, endangers or destroys the lives and fundamental freedoms of the innocent, and it would not be just to leave them to wait for protection until the causes have been remedied and the purposes and principles of the Charter have been given full effect. There is a present need for measures of international co-operation to protect their rights as far as possible. At all times in history, mankind has recognized the unavoidable necessity of repressing some forms of violence, which otherwise would threaten the very existence of society as well as that of man himself. There are some means of using force, as in every form of human conflict, which must not be used, even when the use of force is legally and morally justified, and regardless of the status of the perpetrator.

67. Measures, more or less effective and appropriate, have been devised or attempted in the past by the international community to deal with parts of the problem of terrorism or with related problems. These measures afford some help in the work which should now be done in order to prevent new violence towards new innocent victims.

## ANNEX I

Convention for the prevention and punishment of  
terrorism, opened for signature at Geneva on  
16 November 1937 1/

...

Being desirous of making more effective the prevention and punishment of terrorism of an international character,

...

Who, having communicated their full powers, which were found in good and due form, have agreed upon the following provisions:

Article 1.-1. The High Contracting Parties, reaffirming the principle of international law in virtue of which it is the duty of every State to refrain from any act designed to encourage terrorist activities directed against another State and to prevent the acts in which such activities take shape, undertake as hereinafter provided to prevent and punish activities of this nature and to collaborate for this purpose.

2. In the present Convention, the expression "acts of terrorism" means criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons, or a group of persons or the general public.

Art. 2. Each of the High Contracting Parties shall, if this has not already been done, make the following acts committed on his own territory criminal offences if they are directed against another High Contracting Party and if they constitute acts of terrorism within the meaning of Article 1:

(1) Any wilful act causing death or grievous bodily harm or loss of liberty to:

(a) Heads of States, persons exercising the prerogatives of the head of the State, their hereditary or designated successors;

(b) The wives or husbands of the above-mentioned persons;

(c) Persons charged with public functions or holding public positions when the act is directed against them in their public capacity.

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1/ Not entered into force; ratified by India on 1 January 1941; signed by: Albania, Argentine Republic, Belgium, India, Bulgaria, Cuba, Dominican Republic, Egypt, Ecuador, Spain, Estonia, France, Greece, Haiti, Monaco, Norway, Netherlands, Peru, Romania, Czechoslovakia, Turkey, Union of Soviet Socialist Republics, Venezuela and Yugoslavia.

/...

(2) Wilful destruction of, or damage to, public property or property devoted to a public purpose belonging to or subject to the authority of another High Contracting Party.

(3) Any wilful act calculated to endanger the lives of members of the public.

(4) Any attempt to commit an offence falling within the foregoing provisions of the present article.

(5) The manufacture, obtaining, possession, or supplying of arms, ammunition, explosives or harmful substances with a view to the commission in any country whatsoever of an offence falling within the present article.

Art. 3. Each of the High Contracting Parties shall make the following acts criminal offences when they are committed on his own territory with a view to an act of terrorism falling within Article 2 and directed against another High Contracting Party, whatever the country in which the act of terrorism is to be carried out:

(1) Conspiracy to commit any such act;

(2) Any incitement to any such act, if successful;

(3) Direct public incitement to any act mentioned under heads (1), (2) or (3) of Article 2, whether the incitement be successful or not;

(4) Wilful participation in any such act;

(5) Assistance, knowingly given, towards the commission of any such act.

Art. 4. Each of the offences mentioned in Article 3 shall be treated by the law as a distinct offence in all cases where this is necessary in order to prevent an offender escaping punishment.

Art. 5. Subject to any special provisions of national law for the protection of the persons mentioned under head (1) of Article 2, or of the property mentioned under head (2) of Article 2, each High Contracting Party shall provide the same punishment for the acts set out in Articles 2 and 3, whether they be directed against that or another High Contracting Party.

Art. 6.-1. In countries where the principle of the international recognition of previous convictions is accepted, foreign convictions for any of the offences mentioned in Articles 2 and 3 will, within the conditions prescribed by domestic law, be taken into account for the purpose of establishing habitual criminality.

2. Such convictions will, further, in the case of High Contracting Parties whose law recognizes foreign convictions, be taken into account, with or without special proceedings, for the purpose of imposing, in the manner, provided by that law, incapacities, disqualifications or interdictions whether in the sphere of public or of private law.

Art. 7. In so far as parties civiles are admitted under the domestic law, foreign parties civiles, including, in proper cases, a High Contracting Party shall be entitled to all rights allowed to nationals by the law of the country in which the case is tried.

Art. 8.-1. Without prejudice to the provisions of paragraph 4 below, the offences set out in Articles 2 and 3 shall be deemed to be included as extradition crimes in any extradition treaty which has been, or may hereafter be, concluded between any of the High Contracting Parties.

2. The High Contracting Parties who do not make extradition conditional on the existence of a treaty shall henceforward, without prejudice to the provisions of paragraph 4 below and subject to reciprocity, recognize the offences set out in Articles 2 and 3 as extradition crimes as between themselves.

3. For the purposes of the present article, any offence specified in Articles 2 and 3, if committed in the territory of the High Contracting Party against whom it is directed, shall also be deemed to be an extradition crime.

4. The obligation to grant extradition under the present article shall be subject to any conditions and limitations recognized by the law or the practice of the country to which application is made.

Art. 9.-1. When the principle of the extradition of nationals is not recognized by a High Contracting Party, nationals who have returned to the territory of their own country after the commission abroad of an offence mentioned in Articles 2 or 3 shall be prosecuted and punished in the same manner as if the offence had been committed on that territory, even in a case where the offender has acquired his nationality after the commission of the offence.

2. The provisions of the present article shall not apply if, in similar circumstances, the extradition of a foreigner cannot be granted.

Art. 10. Foreigners who are on the territory of a High Contracting Party and who have committed abroad any of the offences set out in Articles 2 and 3 shall be prosecuted and punished as though the offence had been committed in the territory of that High Contracting Party, if the following conditions are fulfilled - namely, that:

(a) Extradition has been demanded and could not be granted for a reason not connected with the offence itself;

/...

(b) The law of the country of refuge recognizes the jurisdiction of its own courts in respect of offences committed abroad by foreigners;

(c) The foreigner is a national of a country which recognizes the jurisdiction of its own courts in respect of offences committed abroad by foreigners.

Art. 11.-1. The provisions of Articles 9 and 10 shall also apply to offences referred to in Articles 2 and 3 which have been committed in the territory of the High Contracting Party against whom they were directed.

2. As regards the application of Articles 9 and 10, the High Contracting Parties do not undertake to pass a sentence exceeding the maximum sentence provided by the law of the country where the offence was committed.

Art. 12. Each High Contracting Party shall take on his own territory and within the limits of his own law and administrative organization the measures which he considers appropriate for the effective prevention of all activities contrary to the purpose of the present Convention.

Art. 13.-1. Without prejudice to the provisions of head (5) of Article 2, the carrying, possession and distribution of fire-arms, other than smooth-bore sporting-guns, and of ammunition shall be subjected to regulation. It shall be a punishable offence to transfer, sell or distribute such arms or munitions to any person who does not hold such licence or make such declaration as may be required by domestic legislation concerning the possession and carrying of such articles; this shall apply also to the transfer, sale or distribution of explosives.

2. Manufacturers of fire-arms, other than smooth-bore sporting-guns, shall be required to mark each arm with a serial number or other distinctive mark permitting it to be identified; both manufacturers and retailers shall be obliged to keep a register of the names and addresses of purchasers.

Art. 14.-1. The following acts shall be punishable:

(a) Any fraudulent manufacture or alteration of passports or other equivalent documents;

(b) Bringing into the country, obtaining or being in possession of such forged or falsified documents knowing them to be forged or falsified;

(c) Obtaining such documents by means of false declarations or documents;

(d) Wilfully using any such documents which are forged or falsified or were made out for a person other than the bearer.

2. The wilful issue of passports, other equivalent documents, or visas by competent officials to persons known not to have the right thereto under the laws or regulations applicable, with the object of assisting any activity contrary to the purpose of the present Convention, shall also be punishable.

3. The provisions of the present article shall apply irrespective of the national or foreign character of the document.

Art. 15.-1. Results of the investigation of offences mentioned in Articles 2 and 3 and (where there may be a connexion between the offence and preparations for an act of terrorism) in Article 14 shall in each country, subject to the provisions of its law, be centralized in an appropriate service.

2. Such service shall be in close contact:

(a) With the police authorities of the country;

(b) With the corresponding services in other countries.

3. It shall furthermore bring together all information calculated to facilitate the prevention and punishment of the offences mentioned in Articles 2 and 3 and (where there may be a connexion between the offence and preparations for an act of terrorism) in Article 14; it shall, as far as possible, keep in close contact with the judicial authorities of the country.

Art. 16. Each service, so far as it considers it desirable to do so, shall notify to the services of the other countries, giving all necessary particulars:

(a) Any act mentioned in Articles 2 and 3, even if it has not been carried into effect, such notification to be accompanied by descriptions, copies and photographs;

(b) Any search for, any prosecution, arrest, conviction or expulsion of persons guilty of offences dealt with in the present Convention, the movements of such persons and any pertinent information with regard to them, as well as their description, finger-prints and photographs;

(c) Discovery of documents, arms, appliances or other objects connected with offences mentioned in Articles 2, 3, 13 and 14.

Art. 17.-1. The High Contracting Parties shall be bound to execute letters of request relating to offences referred to in the present Convention in accordance with their domestic law and practice and any international conventions concluded or to be concluded by them.

2. The transmission of letters of request shall be effected:

(a) By direct communication between the judicial authorities;

/...

(b) By direct correspondence between the Ministers of Justice of the two countries;

(c) By direct correspondence between the authority of the country making the request and the Minister of Justice of the country to which the request is made;

(d) Through the diplomatic or consular representative of the country making the request in the country to which the request is made; this representative shall send the letters of request, either directly or through the Minister for Foreign Affairs, to the competent judicial authority or to the authority indicated by the Government of the country to which the request is made and shall receive the papers constituting the execution of the letters of request from this authority either directly or through the Minister for Foreign Affairs.

3. In cases (a) and (d), a copy of the letters of request shall always be sent simultaneously to the Minister of Justice of the country to which application is made.

4. Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.

5. Each High Contracting Party shall notify to each of the other High Contracting Parties the method or methods of transmission mentioned above which he will recognize for the letters of request of the latter High Contracting Party.

6. Until such notification is made by a High Contracting Party, his existing procedure in regard to letters of request shall remain in force.

7. Execution of letters of request shall not give rise to a claim for reimbursement of charges or expenses of any nature whatever other than expenses of experts.

8. Nothing in the present article shall be construed as an undertaking on the part of the High Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws.

Art. 18. The participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of the limits of criminal jurisdiction as a question of international law.

Art. 19. The present Convention does not affect the principle that, provided the offender is not allowed to escape punishment owing to an omission in the criminal law, the characterization of the various offences dealt with in the present Convention, the imposition of sentences, the methods of prosecution and trial, and the rules as to mitigating circumstances, pardon and amnesty are determined in each country by the provisions of domestic law.

Art. 20.-1. If any dispute should arise between the High Contracting Parties relating to the interpretation or application of the present Convention, and if such dispute has not been satisfactorily solved by diplomatic means, it shall be settled in conformity with the provisions in force between the parties concerning the settlement of international disputes.

2. If such provisions should not exist between the parties to the dispute, the parties shall refer the dispute to an arbitral or judicial procedure. If no agreement is reached on the choice of another court, the parties shall refer the dispute to the Permanent Court of International Justice, if they are all parties to the Protocol of 16 December 1920, relating to the Statute of that Court; and if they are not all parties to that Protocol, they shall refer the dispute to a court of arbitration constituted in accordance with the Convention of The Hague of 18 October 1907, for the Pacific Settlement of International Disputes.

3. The above provisions of the present article shall not prevent High Contracting Parties, if they are Members of the League of Nations, from bringing the dispute before the Council or the Assembly of the League if the Covenant gives them the power to do so.

Art. 21.-1. The present Convention, of which the French and English texts shall be both authentic, shall bear today's date. Until 31 May 1938, it shall be open for signature on behalf of any Member of the League of Nations and on behalf of any non-member State represented at the Conference which drew up the present Convention or to which a copy thereof is communicated for this purpose by the Council of the League of Nations.

2. The present Convention shall be ratified. The instruments of ratification shall be transmitted to the Secretary-General of the League of Nations to be deposited in the archives of the League; the Secretary-General shall notify their deposit to all the Members of the League and to the non-member States mentioned in the preceding paragraph.

Art. 22.-1. After 1 June 1938, the present Convention shall be open to accession by any Member of the League of Nations, and any of the non-member States referred to in Article 21, on whose behalf the Convention has not been signed.

2. The instruments of accession shall be transmitted to the Secretary-General of the League of Nations to be deposited in the archives of the League; the Secretary-General shall notify their receipt to all the Members of the League and to the non-member States referred to in Article 21.

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Art. 23.-1. Any Member of the League of Nations or non-member State which is prepared to ratify the Convention under the second paragraph of Article 21, or to accede to the Convention under Article 22, but desires to be allowed to make reservations with regard to the application of the Convention, may so inform the Secretary-General of the League of Nations, who shall forthwith communicate such reservations to all the Members of the League and non-member States on whose behalf ratifications or accessions have been deposited and inquire whether they have any objection thereto. Should the reservation be formulated within three years from the entry into force of the Convention, the same inquiry shall be addressed to Members of the League and non-member States whose signature of the Convention has not yet been followed by ratification. If within six months from the date of the Secretary-General's communication, no objection to the reservation has been made, it shall be treated as accepted by the High Contracting Parties.

2. In the event of any objection being received, the Secretary-General of the League of Nations shall inform the Government which desired to make the reservation and request it to inform him whether it is prepared to ratify or accede without the reservation or whether it prefers to abstain from ratification or accession.

Art. 24. Ratification of, or accession to, the present Convention by any High Contracting Party implies an assurance by him that his legislation and his administrative organization enable him to give effect to the provisions of the present Convention.

Art. 25.-1. Any High Contracting Party may declare, at the time of signature, ratification or accession, that, in accepting the present Convention, he is not assuming any obligation in respect of all or any of his colonies, protectorates, oversea territories, territories under his suzerainty or territories in respect of which a mandate has been entrusted to him; the present Convention shall, in that case, not be applicable to the territories named in such declaration.

2. Any High Contracting Party may subsequently notify the Secretary-General of the League of Nations that he desires the present Convention to apply to all or any of the territories in respect of which the declaration provided for in the preceding paragraph has been made. In making such notification, the High Contracting Party concerned may state that the application of the Convention to any of such territories shall be subject to any reservations which have been accepted in respect of that High Contracting Party under Article 23. The Convention shall then apply, with any such reservations, to all the territories named in such notification ninety days after the receipt thereof by the Secretary-General of the League of Nations. Should it be desired as regards any such territories to make reservations other than those already made under Article 23 by the High Contracting Party concerned, the procedure set out in that Article shall be followed.

3. Any High Contracting Party may at any time declare that he desires the present Convention to cease to apply to all or any of his colonies, protectorates, oversea territories, territories under his suzerainty or territories in respect of which a mandate has been entrusted to him. The Convention shall, in that case, cease to apply to the territories named in such declaration one year after the receipt of this declaration by the Secretary-General of the League of Nations.

4. The Secretary-General of the League of Nations shall communicate to all the Members of the League of Nations and to the non-member States referred to in Article 21 the declarations and notifications received in virtue of the present Article.

Art. 26.-1. The present Convention shall, in accordance with the provisions of Article 18 of the Covenant, be registered by the Secretary-General of the League of Nations on the ninetieth day after the receipt by the Secretary-General of the third instrument of ratification or accession.

2. The Convention shall come into force on the date of such registration.

Art. 27. Each ratification or accession taking place after the deposit of the third instrument of ratification or accession shall take effect on the ninetieth day following the date on which the instrument of ratification or accession is received by the Secretary-General of the League of Nations.

Art. 28. A request for the revision of the present Convention may be made at any time by any High Contracting Party by means of a notification to the Secretary-General of the League of Nations. Such notification shall be communicated by the Secretary-General to all the other High Contracting Parties and, if it is supported by at least a third of those Parties, the High Contracting Parties undertake to hold a conference for the revision of the Convention.

Art. 29. The present Convention may be denounced on behalf of any High Contracting Party by a notification in writing addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non-member States referred to in Article 21. Such denunciation shall take effect one year after the date of its receipt by the Secretary-General of the League of Nations, and shall be operative only in respect of the High Contracting Party on whose behalf it was made.

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ANNEX II

Convention on offences and certain other acts committed on  
board aircraft, done at Tokyo on 14 September 1963 1/

THE STATES Parties to this Convention

HAVE AGREED as follows:

Chapter I - Scope of the Convention

Article 1

1. This Convention shall apply in respect of:

(a) offences against penal law;

(b) act which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.

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1/ Entered into force on 4 December 1969; ratified or acceded to by: Argentina, Australia, Barbados, Belgium, Brazil, Burundi, Canada, Chad, Cyprus, Denmark, Dominican Republic, Ecuador, Fiji, Finland, France, Gabon, Federal Republic of Germany, Greece, Guatemala, Hungary, Iceland, Israel, Italy, Ivory Coast, Japan, Kenya, Lesotho, Libyan Arab Republic, Luxembourg, Madagascar, Mali, Mexico, Netherlands, Niger, Nigeria, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Republic of China, \*/ Republic of Korea, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Yugoslavia, Zambia.

\*/ According to information received from the depositary, the Convention was signed and ratified by the "Republic of China" on ~~14 September 1963~~ and ~~28 Feb 1966~~ respectively. In this connexion, it will be recalled that, by its resolution 2758 (XXVI) of 25 October 1971, the General Assembly decided:

"... to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it."

By a note dated 25 September 1972, addressed to the Secretary-General, the Minister for Foreign Affairs of the People's Republic of China, stated inter alia that:

"As from 1 October 1949, the day of the founding of the People's Republic of China, the Chiang Kai-shek clique has no right at all to represent China. Its signature and ratification of, or accession to, any multilateral treaties by usurping the name 'China' are all illegal and null and void. My Government will study these multilateral treaties before making a decision in the light of the circumstances as to whether or not they should be acceded to."

2. Except as provided in chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.
3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.
4. This Convention shall not apply to aircraft used in military, customs or police services.

#### Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, 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.

### Chapter II - Jurisdiction

#### Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.
2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### Article 4

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases:

- (a) the offence has effect on the territory of such State;
- (b) the offence has been committed by or against a national or permanent resident of such State;
- (c) the offence is against the security of such State;

(d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;

(e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

### Chapter III - Powers of the aircraft commander

#### Article 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

#### Article 6

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

(a) to protect the safety of the aircraft, or of persons or property therein, or

(b) to maintain good order and discipline on board; or

(c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

Article 7

1. Measures of restraint imposed upon a person in accordance with article 6 shall not be continued beyond any point at which the aircraft lands unless:

(a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1 (c) in order to enable his delivery to competent authorities;

(b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or

(c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

Article 8

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1 (b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

#### Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

### Chapter IV - Unlawful seizure of aircraft

#### Article 11

1. When a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the case contemplated in the preceding paragraph, the Contracting State in which the aircraft lands shall permit its passengers and crew to continue their journey as soon as practicable, and shall return the aircraft and its cargo to the persons lawfully entitled to possession.

### Chapter V - Powers and duties of States

#### Article 12

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

#### Article 13

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1 and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

3. Any person in custody pursuant to the previous paragraph shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary inquiry into the facts.

5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### Article 14

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

#### Article 15

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition or criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person

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has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1 or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.

## Chapter VI - Other provisions

### Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.
2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

### Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connexion with any offence committed on board an aircraft the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.

### Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which, for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

## Chapter VII - Final clauses

### Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the specialized agencies.

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Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the specialized agencies.
2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

Article 23

1. Any Contracting State may denounce this Convention by notification addressed to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article 24

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

/...

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

Article 25

Except as provided in Article 24 no reservation may be made to this Convention.

Article 26

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the specialized agencies:

- (a) of any signature of this Convention and the date thereof;
- (b) of the deposit of any instrument of ratification or accession and the date thereof;
- (c) of the date on which this Convention comes into force in accordance with Article 21, paragraph 1;
- (d) of the receipt of any notification of denunciation and the date thereof; and
- (e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

...

ANNEX III

Convention for the suppression of unlawful seizure of aircraft,  
signed at The Hague on 16 December 1970 1/

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

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1/ Entered into force on 14 October 1971; ratified or acceded to by: Argentina, Brazil, Bulgaria, the Byelorussian Soviet Socialist Republic, Canada, Chad, Chile, Costa Rica, Cyprus, Czechoslovakia, Dahomey, Ecuador, Fiji, Finland, France, Gabon, the German Democratic Republic, Hungary, Iran, Iraq, Israel, Japan, Jordan, Mali, Mexico, Mongolia, the Niger, Norway, Panama, Paraguay, Poland, Republic of China, \*/ Romania, South Africa, Sweden, Switzerland, Trinidad and Tobago, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uganda.

\*/ According to information received from one of the depositaries, the Convention was signed and ratified by the "Republic of China" on 16 December 1970 and 27 July 1979 respectively (see annex II above, foot-note 1). /...

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.
2. This Convention shall not apply to aircraft used in military, customs or police services.
3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.
4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.
5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connexion with the offence, in the following cases:
  - (a) when the offence is committed on board an aircraft registered in that State;
  - (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
  - (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

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2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

#### Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1 (c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

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Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1 (a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft, or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

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Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.
3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.



3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

ANNEX IV

Convention for the suppression of unlawful acts against  
the safety of civil aviation, signed at Montreal on  
23 September 1971 <sup>1/</sup>

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

Article 1

1. Any person commits an offence if he unlawfully and intentionally;
  - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
  - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
  - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
  - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
  - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

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<sup>1/</sup> Not yet entered into force; ratified or acceded to by: Brazil, Canada, Chad, Israel, Luxembourg, Mali, the Niger, Panama, South Africa, Trinidad and Tobago, Yugoslavia.

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2. Any person also commits an offence if he:

(a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or

(b) is an accomplice of a person who commits or attempts to commit any such offence.

#### Article 2

For the purposes of this Convention:

(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

#### Article 3

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

#### Article 4

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the cases contemplated in subparagraphs (a), (b), (c), and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

(a) the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registration of that aircraft; or

(b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in the cases mentioned in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this

Convention shall not apply if the places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

#### Article 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

(a) when the offence is committed in the territory of that State;

(b) when the offence is committed against or on board an aircraft registered in that State;

(c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

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2. Such State shall immediately make a preliminary enquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.
4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

#### Article 8

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (b), (c) and (d).

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Article 9

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.
2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 11

1. Contracting States shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

Article 13

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

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- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 10, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

#### Article 14

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.
3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

#### Article 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (hereinafter referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.
3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in the Montreal Conference.

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4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### Article 16

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

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ANNEX V

Convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance, signed at Washington on 2 February 1971<sup>1/</sup>

WHEREAS:

The defence of freedom and justice and respect for the fundamental rights of the individual that are recognized by the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights are primary duties of States;

The General Assembly of the Organization, in resolution 4, of 30 June 1970, strongly condemned acts of terrorism, especially the kidnapping of persons and extortion in connexion with that crime, which it declared to be serious common crimes;

Criminal acts against persons entitled to special protection under international law are occurring frequently, and those acts are of international significance because of the consequences that may flow from them for relations among States;

It is advisable to adopt general standards that will progressively develop international law as regards co-operation in the prevention and punishment of such acts; and

In the application of those standards the institution of asylum should be maintained and, likewise the principle of non-intervention should not be impaired,

THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES HAVE AGREED UPON THE FOLLOWING ARTICLES:

Article 1

The Contracting States undertake to co-operate among themselves by taking all the measures that they may consider effective, under their own laws, and especially those established in this convention, to prevent and punish acts of terrorism, especially kidnapping, murder, and other assaults against the life or physical integrity of those persons to whom the State has the duty according to international law to give special protection, as well as extortion in connexion with those crimes.

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<sup>1/</sup> Not entered into force; signed by: Colombia, Costa Rica, the Dominican Republic, El Salvador, Honduras, Jamaica, Mexico, Nicaragua, Panama, Trinidad and Tobago, United States of America, Uruguay, Venezuela.

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## Article 2

For the purposes of this Convention, kidnapping, murder and other assaults against the life or personal integrity of those persons to whom the State has the duty to give special protection according to international law, as well as extortion in connexion with those crimes, shall be considered common crimes of international significance, regardless of motive.

## Article 3

Persons who have been charged or convicted for any of the crimes referred to in Article 2 of this Convention shall be subject to extradition under the provisions of the extradition treaties in force between the parties or, in the case of States that do not make extradition dependent on the existence of a treaty, in accordance with their own laws.

In any case, it is the exclusive responsibility of the State under whose jurisdiction or protection such persons are located to determine the nature of the acts and decide whether the standards of this Convention are applicable.

## Article 4

Any person deprived of his freedom through the application of this Convention shall enjoy the legal guarantees of due process.

## Article 5

When extradition requested for one of the crimes specified in Article 2 is not in order because the person sought is a national of the requested State, or because of some other legal or constitutional impediment, that State is obliged to submit the case to its competent authorities for prosecution, as if the act had been committed in its territory. The decision of these authorities shall be communicated to the State that requested extradition. In such proceedings, the obligation established in Article 4 shall be respected.

## Article 6

None of the provisions of this Convention shall be interpreted so as to impair the right of asylum.

## Article 7

The Contracting States undertake to include the crimes referred to in Article 2 of this Convention among the punishable acts giving rise to extradition in any treaty on the subject to which they agree among themselves in the future. The Contracting States that do not subject extradition to the existence of a treaty with the requesting State shall consider the crimes referred to in Article 2 of this Convention as crimes giving rise to extradition, according to the conditions established by the laws of the requested State.

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### Article 8

To co-operate in preventing and punishing the crimes contemplated in Article 2 of this Convention, the Contracting States accept the following obligations:

(a) To take all measures within their power, and in conformity with their own laws, to prevent and impede the preparation in their respective territories of the crimes mentioned in Article 2 that are to be carried out in the territory of another Contracting State.

(b) To exchange information and consider effective administrative measures for the purpose of protecting the persons to whom Article 2 of this Convention refers.

(c) To guarantee to every person deprived of his freedom through the application of this Convention every right to defend himself.

(d) To endeavour to have the criminal acts contemplated in this Convention included in their penal laws, if not already so included.

(e) To comply most expeditiously with the requests for extradition concerning the criminal acts contemplated in this Convention.

### Article 9

This Convention shall remain open for signature by the member States of the Organization of American States, as well as by any other State that is a Member of the United Nations or any of its specialized agencies, or any State that is a party to the Statute of the International Court of Justice, or any other State that may be invited by the General Assembly of the Organization of American States to sign it.

### Article 10

This Convention shall be ratified by the signatory States in accordance with their respective constitutional procedures.

### Article 11

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited in the General Secretariat of the Organization of American States, which shall send certified copies to the signatory Governments for purposes of ratification. The instruments of ratification shall be deposited in the General Secretariat of the Organization of American States, which shall notify the signatory Governments of such deposit.

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Article 12

This Convention shall enter into force among the States that ratify it when they deposit their respective instruments of ratification.

Article 13

This Convention shall remain in force indefinitely, but any of the Contracting States may denounce it. The denunciation shall be transmitted to the General Secretariat of the Organization of American States, which shall notify the other Contracting States thereof. One year following the denunciation, the Convention shall cease to be in force for the denouncing State, but shall continue to be in force for the other Contracting States.

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