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REPORT OF THE SIXTH COMMITTEE (A/9415)

President: Mr. Leopoldo BENITES (Ecuador).

*In the absence of the President, Mr. Fack (Netherlands),
Vice-President, took the Chair.*

AGENDA ITEM 94

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

AGENDA ITEM 92

Report of the United Nations Commission on International Trade Law on the work of its sixth session

REPORT OF THE SIXTH COMMITTEE (A/9408)

1. Mr. BOZANGA (Central African Republic), Rapporteur of the Sixth Committee (*interpretation from French*): It is my honour to introduce to the General Assembly the reports of the Sixth Committee on items 94, 96, 93, 95, 97, 98, 99 and 92 of the agenda of the twenty-eighth session.
2. The report on item 94, concerning the question of international terrorism [A/9410], is very simple. The Sixth Committee, for lack of time, was unable to consider this item and thus recommends that the General Assembly include it in the provisional agenda of its twenty-ninth session. One delegation raised an objection to that decision, and its statement appears in the record of the 1458th meeting of the Sixth Committee.
3. With regard also to item 97, relating to the review of the role of the International Court of Justice, the Sixth Committee recommends in its report to the Assembly [A/9413] that this item be included in the provisional agenda of the twenty-ninth session.
4. During its consideration of item 96, the Sixth Committee had before it a report of the Secretary-General on the new relevant facts relating to that question, including those which concerned the twenty-second International Conference of the Red Cross, held at Teheran last month, as well as a study prepared by the Secretary-General of existing rules of international law on the prohibition or restriction of the use of certain weapons. Following its consideration of the matter, the Committee adopted the two draft resolutions contained in paragraph 15 of its report [A/9412]. Draft resolution I, "Respect for human rights in armed conflicts", has to do with the reaffirmation and development of humanitarian international law applicable in armed conflicts and with various aspects of the Diplomatic Conference to be convened by the Swiss Federal Council in February 1974. Draft resolution II concerns various basic principles relative to the legal status of the combatants struggling against colonial and alien domination and racist régimes.
5. The report on agenda item 93 [A/9409] contains in paragraph 11 a draft resolution recommending to the General Assembly that it request the Secretary-General to convene the United Nations Conference on Prescription (Limitation) in the International Sale of Goods in New York from 20 May to 14 June 1974 and to settle several questions such as that of the participation of States in the Conference.
6. The report of the Sixth Committee on agenda item 95 [A/9411] contains in paragraph 33 a draft resolution by which the General Assembly would request the Special Committee on the Question of Defining Aggression to resume its work at the beginning of 1974 in New York with a view to completing its task and to submitting to the General Assembly at the twenty-ninth session a draft definition of aggression.
7. The report of the Sixth Committee on agenda item 98 [A/9414] contains in paragraph 5 a draft resolution which recommends, *inter alia*, that the General Assembly authorize the Secretary-General to carry out in 1974 and 1975 the activities specified in the report he submitted to the Assembly in document A/9242 and Corr.1. Among those activities, I would mention the awarding of a minimum of 15 fellowships at the request of Governments of developing countries, and assistance in the form of a travel grant for one participant from each developing country invited to the regional meetings to be organized in 1974 and 1975.
8. The Sixth Committee's report on agenda item 99 [A/9415] contains in paragraph 5 a draft resolution which states, *inter alia*, the deep concern of the Assembly at violent attacks against the premises of permanent missions and at the harassment of and hostile action against personnel of those missions. In particular, it requests the host country to adopt a series of measures to put an end to that state of affairs and asks the Committee on Relations with the Host Country to continue its work.
9. The last of the Sixth Committee reports is on agenda item 92 [A/9408]. Among the provisions of the draft resolution contained in paragraph 54, I should like to point out operative paragraph 8 which, if adopted by the Assembly, should be taken into consideration when the Assembly elects the members of the United Nations Commission on International Trade Law. That paragraph increases from 29 to 36 the number of members of the Commission and sets forth rules on the distribution of the additional seats and the duration of the terms of office of the additional members.

Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the Sixth Committee.
10. The PRESIDENT: We shall first consider the report of the Sixth Committee on agenda item 94 [A/9410]. The recommendation of the Sixth Committee is contained in paragraph 4 of its report. May I consider that the General Assembly approves that recommendation?

The recommendation was adopted.
11. The PRESIDENT: We now turn to the report of the Sixth Committee on agenda item 96 [A/9412] and to draft resolutions I and II recommended by that Committee in paragraph 15 of its report.
12. I shall now call on those representatives who wish to explain their votes before the voting.
13. Mr. WEHRY (Netherlands): The Assembly is to vote today on a draft resolution which "solemnly proclaims" certain "basic principles of the legal status of the combatants struggling against colonial and alien domination and racist régimes" [draft resolution II]. That language strongly suggests that the text purports to have the character of a United Nations declaration.
14. My delegation wishes to place it on record that the Netherlands delegation respects and shares the motive of the original sponsors, which is to seek to increase the humanitarian protection due those who struggle for independence and self-determination. It is not necessary in this

context to repeat the constructive and sympathetic support which the Netherlands Government has consistently given to decolonization, or its position against *apartheid*, both within and outside of the United Nations.

15. Yet my delegation will abstain in the vote on this draft resolution. In so doing we change from a negative vote in the Sixth Committee to an abstention in the Assembly. In the Sixth Committee our delegation was faced with a vote 24 hours after the abrupt submission of a text which, from the legal point of view, appeared far from flawless and on which my delegation had no time to receive instructions. Now, as an indication of our willingness to discuss in depth the humanitarian aspects of conflicts arising from the negation of racial equality and the rights of peoples to self-determination—quite a special category of conflicts in our view—we do not wish to oppose the spirit of the draft resolution as we read it, while on the other hand regretting that we cannot support its wording.

16. However, we also wish to put on record our sincere regret that in the Sixth Committee there was no prior attempt at notification by the sponsors, no time for a thorough debate on such an ambitious text as this, and no time for any sort of negotiation or even clarification of views. We cannot help feeling that there has been a sad disregard for the need of fair parliamentary co-operation, particularly as the text submitted clearly aimed at something approaching a United Nations declaration. In our view such a document should not have been rushed through the Committee stage. In an important matter of this nature the prudent legal traditions of the Sixth Committee should have been upheld.

17. Apart from our substantive and procedural misgivings, we agree with many other delegations that the draft resolution is a document tending to prejudice the sovereignty of the forthcoming Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be held in Geneva in 1974. Experts on humanitarian law are better qualified to consider the consequences and the feasibility of any basic principles in that realm of law. This Assembly might have been better advised to request the Conference to give due attention to conflicts arising from the decolonization process, while refraining from formulating norms itself.

18. In conclusion, I wish to assure those delegations which voted in favour of the draft resolution in the Committee that the Netherlands will provide a constructive contribution and seek a meeting of views at the forthcoming Diplomatic Conference, this in our continuing commitment to the just cause and well-being of peoples involved in a painful struggle to exercise their rights to self-determination.

19. Mr. MARTYNENKO (Ukrainian Soviet Socialist Republic) (*translation from Russian*): The delegation of the Ukrainian SSR attaches considerable importance to the discussion in the United Nations of the question of respect for human rights in armed conflicts and would like to offer its comments on draft resolution II, which has been submitted by the Sixth Committee in paragraph 15 of document A/9412.

20. First of all, I should like to stress that the question of respect for human rights in armed conflicts has not lost its urgency in present-day conditions. The question of the protection of human rights in armed conflicts is very closely linked to the attainment of the basic aims of the United Nations as proclaimed in its Charter, that is, to save succeeding generations from the scourge of war and to reaffirm faith in fundamental human rights and in the dignity and worth of the human person.

21. In draft resolution II now under consideration, the General Assembly would reaffirm the imperative need for strict and unswerving observance of the rules of contemporary international law, particularly the 1949 Geneva Conventions, aimed at making war more humane. At the same time, a significant part of the draft resolution is devoted to the question of strengthening the protection of those struggling for national independence against colonial and alien domination and racist régimes—a very important question that is attracting special attention in connexion with the drafting of Additional Protocols to the 1949 Geneva Conventions. The draft resolution briefly sets forth the basic principles of the legal status of the combatants struggling against colonial and alien domination and racist régimes. The basic emphasis, nature and contents of these principles reflect the need fully to apply the provisions of the 1949 Geneva Conventions to the participants in the struggle for national independence and against colonialism and racist régimes. All the paragraphs of that part of the resolution have been formulated in full accordance with the United Nations Charter, including the principle embodied in it relating to the right to self-determination, which has been further developed in a number of declarations and in numerous resolutions of the General Assembly.

22. The delegation of the Ukrainian SSR cannot therefore agree with the objections voiced against this draft resolution, and considers that the reasons and arguments adduced are devoid of any real foundation and lack conviction. According to one of those arguments, the draft resolution would protect only those fighting on one side of the armed conflict, that is, only those participating in the national liberation struggle against colonial domination and racist régimes. Such an interpretation of the provisions of this draft resolution is basically unsound. It is true that the draft resolution places emphasis on the need to apply the laws and customs of war to the members of the national liberation movements. This does not, however, preclude in any way the general observance of those laws and customs of war during conflicts in the context of all military actions. The emphasis is incorporated in the draft resolution in order to stress the need to protect those participating in the struggle against colonial oppression and racist régimes—issues which were not sufficiently precisely reflected in the 1949 Geneva Conventions, because in 1949 that struggle had not attained its present level and did not have the influence on international law that it has today.

23. When we say that the need for the further development of international humanitarian law and, in particular, the drafting of Additional Protocols to the 1949 Geneva Conventions, is dictated by the new trends and processes taking place in international relations, this means primarily the processes connected with the elimination of colonialism,

which constitute one of the main characteristics of the progress of international relations in recent decades. It is therefore quite right that the draft resolution should devote particular attention to those very issues.

24. The other arguments against the adoption of this draft resolution hold that such a resolution might hamper the work of the forthcoming Diplomatic Conference and would mean that discussion of this item at the Conference started on an unsound basis. We cannot agree with those arguments either. The Diplomatic Conference has the task of elaborating Additional Protocols to the 1949 Geneva Conventions, in other words, preparing documents and formulating provisions directly connected with the question of respect for human rights in armed conflicts, which for many years has been discussed in the Third Committee and subsequently in the Sixth Committee of the General Assembly. It is hardly possible seriously to deny that, in such circumstances, it would be important and perfectly logical and natural for the General Assembly to express its view on the various problems which had been touched upon in the course of the discussions. That is precisely the aim of the present draft resolution. We consider it to be entirely justified and timely in the light of the forthcoming Conference—just as we consider it important and necessary for the Conference to give this resolution due attention. This is particularly important since certain principles contained in it have already been reflected in various resolutions of the General Assembly and have received broad support.

25. Furthermore, it should be borne in mind that, in the practice of the General Assembly, there are some quite well-known instances in which the General Assembly has adopted resolutions on questions intended for discussion at forthcoming diplomatic conferences.

26. Mention has also been made here of the lack of time in which to discuss the present draft resolution. But it should not be forgotten that the question has already been discussed in the United Nations over a period of six years; that a number of resolutions containing individual elements have been adopted; that this draft resolution in substance combines the basic principles embodied in resolutions adopted previously, and sets the basic guidelines for the solution of this question. Specific wording or provisions reflecting these basic guidelines may be drafted on the basis of more detailed discussion.

27. The delegation of the Ukrainian SSR considers it entirely correct and advisable to adopt this draft resolution, which will represent a specific contribution on the part of the United Nations to the further development of the rules of international humanitarian law, and we would appeal to all delegations to support the draft resolution.

28. The PRESIDENT: The General Assembly will now vote on the draft resolutions recommended by the Sixth Committee in paragraph 15 of its report [A/9412]. We shall turn first to draft resolution I. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Bhutan,

Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Denmark, Ecuador, Egypt, El Salvador, Equatorial Guinea, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Japan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Yemen, Yugoslavia, Zaire, Zambia.

Against: None.

Abstaining: Costa Rica, Israel, Paraguay, Portugal, Spain, United States of America.

Draft resolution I was adopted by 107 votes to none, with 6 abstentions (resolution 3102 (XXVIII)).¹

29. The PRESIDENT: I now put draft resolution II to the vote. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Bahrain, Barbados, Bhutan, Botswana, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Gabon, German Democratic Republic, Ghana, Guinea, Guyana, Hungary, India, Indonesia, Iraq, Ireland, Ivory Coast, Jamaica, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Yemen, Yugoslavia, Zaire, Zambia.

Against: Austria, Belgium, Brazil, France, Germany, Federal Republic of, Israel, Italy, Luxembourg, Portugal, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Australia, Canada, Costa Rica, Denmark, Finland, Greece, Guatemala, Honduras, Iceland, Iran,

¹ The delegations of Paraguay and Swaziland subsequently informed the Secretariat that they wished their votes to be recorded as having been in favour of the draft resolution.

Japan, Malawi, Netherlands, New Zealand, Norway, Paraguay, Spain, Sweden, Turkey.

Draft resolution II was adopted by 83 votes to 13, with 19 abstentions (resolution 3103 (XXVIII)).

30. The PRESIDENT: I shall now call on those representatives who wish to explain their votes.

31. Mr. ALARCÓN (Cuba) (*interpretation from Spanish*): My delegation voted in favour of both draft resolutions submitted to the General Assembly by the Sixth Committee. In so doing, we nevertheless would like to reiterate some reservations that we have with regard to draft resolution I, which we duly expressed in the Sixth Committee and also conveyed to some of the countries particularly interested in promoting the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

32. Those reservations, however, do not prevent our delegation from noting the very positive aspects contained in the draft resolution adopted by the Assembly, particularly in operative paragraphs 2 and 3.

33. We are also in favour of draft resolution II, now a resolution of the Assembly, relating to the basic principles of the legal status of the combatants struggling against colonial and alien domination and against racist régimes.

34. In expressing our support for the documents considered this year by the General Assembly on respect for human rights in armed conflicts, my delegation would like to state for the record once again the opinion it has expressed on numerous occasions before the General Assembly ever since it began to study the matter.

35. We consider that the problem raised by the item which the Assembly has just voted on cannot be limited to a legal study of some conventions or international agreements, but, rather, that it should be compared with the day-to-day reality in a world where peoples are facing colonialism, imperialist aggression and racism, a world which produces situations of armed conflict giving rise to serious violations of the rights of civilian populations, of combatants and of non-combatants alike. That is why we express our satisfaction at draft resolution II adopted by the Assembly and at operative paragraphs 2 and 3 of draft resolution I.

36. Item 96, ever since it was first included in the agenda, has enabled the Assembly to consider and debate situations such as those we have mentioned. In recent years many delegations have expressed their views on this item, denouncing the grave violations of human rights of the civilian populations in the territories of Indo-China, subjected to a most cruel war of aggression. Similarly, if we note the fact that today the rights of those populations continue to be violated, our thoughts also turn to the African peoples subjected to colonialism and *apartheid* and to minority racist régimes, as well as to the Palestinian and other Arab peoples of the Middle East whose most basic rights are trampled under foot, day after day, as the result of the conflicts in that area.

37. Today, my delegation must repeat that the Assembly and the international community should not limit themselves to a reaffirmation of universally recognized principles relating to human rights in armed conflicts, and should not slacken their efforts to draft or revise international rules in this respect. They should, on the contrary, mobilize and act to put an end to situations which create such problems for the world's civilian populations. Today, we are living in a world in which imperialist aggression against the peoples of Indo-China and the Middle East continues, in which colonialism and *apartheid* are still inflicted on Africa, and in which imperialist policies generate situations constituting the most serious violations of the human rights of whole populations, as can be observed by all mankind today in the events that have been taking place in Chile.

38. To give a recent example of how, in armed conflicts, the rights of peoples are violated to an extreme degree, suffice it to mention for the records of this Assembly the statement made by the former Ambassador of Sweden to Santiago in Chile, Mr. Edelstam, on his return to his country only two days ago. Ambassador Edelstam mentioned that, on the occasion of the coup d'état of 11 September in Chile, 15,000 persons were killed; 35,000 were arrested, with 7,000 of them still remaining in prison; 30,000 students lost their right to continue their studies; and 10,000 persons were left without employment.

39. Among these victims of Fascist brutality in Chile, my delegation would like to call to the attention of this Assembly the situation of a distinguished Chilean economist and intellectual, well-known in Latin America for his activities in the field of international co-operation for development, Mr. Jaime Barrios, the former general manager of the Central Bank of Chile, who disappeared on 11 September, according to the Fascist junta, and who is today, allegedly, accused of being the intellectual author of, or the person responsible for, an alleged plan that the Fascist junta considers highly dangerous. This leads our delegation to believe that, at this very moment when the Assembly is reaffirming the principles of human rights applicable in armed conflicts, this distinguished Chilean economist, well-known and recognized throughout Latin America for his contribution to the development of our peoples, may be a victim of the Fascist insanity raging in Chile.

40. It is against the background of these facts, these phenomena in the world of today, that the debate took place in the Sixth Committee, followed by the adoption of the two resolutions this morning. My delegation expresses its hope that this Assembly and the international community will go beyond the reiteration of principles and the repetition of good intentions and undertake concerted action to put an end to the phenomena of fascism, of imperialism and of colonialism, which are at the root of the problems under examination in the Sixth Committee.

41. Mr. STEEL (United Kingdom): My delegation voted in favour of draft resolution I, set out in paragraph 15 of the Sixth Committee's report [A/9412]. Our vote in favour should not be taken as implying any change in the attitude of my delegation to operative paragraph 2 of this draft resolution. It will be recalled that this paragraph was inserted by an amendment in the Sixth Committee and that

my delegation voted against the amendment. We did so because we considered that the paragraph was unnecessary and undesirable. We regard it as unnecessary because, as was stated in the report of the Commission on International Humanitarian Law [see A/9123/Add.2, annex] at the recent twenty-second International Conference of the Red Cross at Teheran, the Swiss Government is in fact seeking agreement on the appropriate way in which liberation movements recognized by regional intergovernmental organizations might be associated with the work of the Diplomatic Conference. The paragraph is undesirable because it could be read as seeking to tie the hands of the Swiss Government or the Diplomatic Conference as to the precise form of such association. The Conference will be a conference among Governments of States negotiating the texts of international agreements with a view to their eventual ratification by Governments, and it is unrealistic to expect Governments to accept anything more than very limited participation in the Conference by non-governmental bodies.

42. Mr. ROSENNE (Israel): The full explanation for the votes my delegation has cast on the draft resolutions submitted by the Sixth Committee is to be found in the various statements and replies which we made during the Committee's debates.

43. In particular, we maintain our abstention on draft resolution I and our negative vote on draft resolution II because we believe that in the form in which they have been adopted they are likely to place very serious obstacles in the way of the successful conclusion of the work of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, convened by the Swiss Government next February.

44. Our apprehensions on this score have been aggravated by several aspects of the debate in the Sixth Committee, and I wish to dwell for a minute on this.

45. Many representatives, including ourselves, recalled the urgent necessity for developing and improving the humanitarian law, and in this respect recalled different aspects of the situation in the Middle East. In this connexion, other representatives also referred to some aspects of the application, in the Middle East situation, of some of the Geneva Conventions of 1949, singling out in particular and misrepresenting the position of my Government with regard to the question of the application of the fourth Geneva Convention in the territories we are administering. That is the Convention that deals with the protection of civilian persons in time of war.

46. On this, allow me first to recall the statement made by the Permanent Representative of Israel, Ambassador Tekoah, at the 1751st meeting of the Security Council on 26 October last. On that occasion, the representative of Egypt had asked whether Israel agreed to abide by the fourth Geneva Convention. Ambassador Tekoah replied to the point:

“... the answer is ‘yes’, and the answer was given on 8 October, two days after the Egyptian-Syrian aggression, to the International Committee of the Red Cross, and on

19 October the President of the Security Council was informed likewise.”²

47. I also recall the letter of our Permanent Representative of 19 October 1973 to the President of the Security Council, in document S/11034.³

48. It is true that there are differences of opinion and divergences of interpretation concerning aspects of the application of that Convention in different concrete circumstances. These have existed since the summer of 1967. We have explained our position on many occasions in different organs, including particularly the Commission on Human Rights, the Special Political Committee and this General Assembly, and I am not going to take up the General Assembly's time by a further detailed rehearsal of all this. More directly, and with less polemics, the whole question is being repeatedly discussed with the competent authorities of the International Committee of the Red Cross.

49. Bearing in mind however that several representatives in the Sixth Committee have demonstrated an insatiable curiosity to know what our position is, I would simply refer them, limiting myself to what we have said this year, to what I said in the Commission on Human Rights at Geneva in the spring, and to what my colleagues have said during the current session in the Special Political Committee and from this rostrum.

50. Whatever differences of opinion may exist on these questions, I do not believe that any of them are such that they could not be ironed out easily through the normal processes employed in the international community for the solution of these issues. These processes do not include sterile and vituperative debate here. What is more to the point, the actual situation in the administered territories as regards the enjoyment of human rights by the population and more particularly as regards the concrete matters with which the Fourth Convention deals is not, if it is looked at objectively and without prejudice, as it is presented by Arab spokesmen.

51. The fact of the matter is—to return to Ambassador Tekoah's statement, and I quote:

“One question, however, put by me—put by all mankind to the Governments of Egypt and Syria—still remains unanswered: When will those two Governments abide by the Geneva Convention, by fundamental principles of humanity and morality, and transmit through the International Red Cross the list of Israeli prisoners of war in their hands?”⁴

52. In its bulletin Number 205 B of 5 December 1973, the International Committee of the Red Cross [ICRC] had this to say:

“The ICRC has still not received despite repeated requests any capture cards concerning Israeli prisoners of war in Syrian hands or been granted authorization to visit such prisoners”.

² See *Official Records of the Security Council, Twenty-eighth Year, 1751st meeting, para. 228.*

³ *Ibid., Twenty-eighth Year, Supplement for October, November and December 1973.*

⁴ *Ibid., Twenty-eighth Year, 1751st meeting, para. 229.*

53. Our anxiety and the anxiety of all those concerned with the observance of the standards of international humanitarian law in the present Middle East situation are aggravated by the authenticated reports of horrendous and atrocious conduct, as specified in our letters to the Secretary-General of 22 November and 8 and 9 November 1973 in documents A/9333, A/9429 and A/9432, to which our prisoners of war have been subjected in Egypt and Syria.

54. The obligations of the Geneva Convention relative to the Treatment of Prisoners of War, including the obligations about the transmission of information and visits by the ICRC, are absolute and unconditional and every attempt to befuddle this by reference to irrelevant considerations based on other Geneva Conventions or on obviously trumped-up countercharges of which not the slightest whisper has been heard until now, or by the introduction of political demands is utterly inadmissible.

55. I wish to repeat what has been said by our representatives in other competent organs, including the Security Council, as well as to the representatives of the International Committee of the Red Cross in Geneva and in our area, namely, that we have always implemented all the obligations which customary and conventional international law requires of us, and we expect our opponents to do likewise, their failure to do so engaging their responsibility.

56. Mr. CRUCHO DE ALMEIDA (Portugal) (*interpretation from French*): The Portuguese delegation has already expressed its reservations in the Sixth Committee on operative paragraph 2 of draft resolution I and has voted against the amendment introduced in this paragraph in that Committee. The Portuguese delegation did not deem it necessary to have a separate vote in the plenary on operative paragraph 2 of draft resolution I. It maintains its reservations on this paragraph but has not cast a negative vote on draft resolution I as a whole, given the importance and aspirations which are linked with the convening of the upcoming Conference in Geneva.

57. Mr. CASTILLO-ARRIOLA (Guatemala) (*interpretation from Spanish*): The delegation of Guatemala would like to state for the record that it abstained in the vote on draft resolution I in the Sixth Committee since this draft resolution contained a paragraph which is not acceptable to the delegation of Guatemala. However, in voting in the General Assembly, truly convinced of the fact that armed conflicts continue to inflict untold human suffering and destruction of material goods and that it is necessary to establish norms aimed at avoiding suffering in so far as it is possible and to increase the protection of non-combatants and of civilian property, and that this can only be accomplished through the full and efficient implementation by all parties to an armed conflict of the existing legal norms relative to those armed conflicts, and, furthermore, since a decision has been taken by the Swiss Federal Council to convene in Geneva the first meeting of the Diplomatic Conference to improve this law, and also having knowledge of successive United Nations resolutions, my delegation has cast an affirmative vote on that draft resolution. However, it wishes to state that it would have abstained on operative paragraph 2, which contains a non-definition of what is

actually intended. It wishes to state for the record that, as drafted, operative paragraph 2 of draft resolution I is unacceptable.

58. Concerning draft resolution II, my delegation also abstained in the vote because, although it has always opposed the policy of *apartheid* and racial domination, this resolution also contains some paragraphs which my delegation has been unable to accept. For these reasons it has abstained in the vote in the General Assembly.

59. Mr. EVANS (United States of America): At the outset, the United States Government warmly endorses the work of the International Committee of the Red Cross in the field of the reaffirmation and development of international humanitarian law applicable in armed conflict. We genuinely welcome the decision of the Swiss Government to convene a Diplomatic Conference on this subject in February 1974. However, we could not agree with operative paragraph 2 of draft resolution I. I should like to say by way of explanation that we sincerely feel that an inappropriate form of participation in the Conference of entities that are not States would raise the question as to whether the Conference would continue to be a useful forum for negotiation of international conventions. It is for that reason that we had to abstain in the vote.

60. Now with reference to draft resolution II, my delegation voted against it. We consider it wrong in virtually every paragraph as a statement of law. Permit me to explain.

61. International humanitarian law by its very nature treats all victims of armed conflict on an equal plane as being in equal need of protection, without regard to the cause for which particular persons or groups are fighting.

62. We believe that to classify one kind of conflict as international because of motivation or to accord special treatment to a select class of victims of war because of their motivation is frankly the antithesis of international humanitarian law and totally unacceptable. It seems logical to assume that each party to any conflict will assert that it fights for the just cause and that the opposing side is made up of criminals. What happens as a result is that everybody, especially innocent victims, will suffer. It seems to us that the key to understanding the restraints placed on conduct by international humanitarian law is that they apply equally to the aggressor and to those acting in self-defence. We feel that any deviation from this even-handed application destroys the very basis of the protection itself.

63. Let me reassure members that we agree with the goal of strengthening humanitarian protection for all victims of war. But this should be done in the context of the upcoming Diplomatic Conference scheduled for February 1974 in Geneva. The work of that Conference cannot be prejudiced in any way by the ill-founded assertions in this resolution. Progress in increasing the protection in international armed conflicts can more appropriately be made by relaxing somewhat the conditions that irregular forces must meet in order to qualify for prisoner-of-war treatment.

64. With regard to non-international conflicts, progress should be possible on a protocol expanding the protections

now available under common article 3 of the 1949 Geneva Conventions. The protocol can cover and can upgrade the standards of treatment generally as well as the standards of treatment for those deprived of liberty in relation to the conflict. Let me stress that in our estimation the way to make progress is not—I repeat, not—by beginning to treat victims in relation to the cause for which they fight and not by seeking to establish a new criterion above and beyond that contained in common article 2 of the 1949 Geneva Conventions for the existence of international armed conflicts.

65. In conclusion, the United States hopes that the participants at the Diplomatic Conference in February will be able more seriously to focus on humanitarian instead of political concerns. If they are not, we have grave doubts about the ability of the Conference successfully to conclude its work.

66. The PRESIDENT: We shall now turn to the report of the Sixth Committee on agenda item 93 [A/9409].

67. I shall now call on the representative of the USSR, who wishes to explain his vote before the vote.

68. Mr. FEDOROV (Union of Soviet Socialist Republics) (*translation from Russian*): The Soviet delegation would like to explain its vote on the draft resolution relating to the convening of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods.

69. As is well known, the Soviet Union has always supported the participation of all States in various international conferences and has always considered that only the universal participation of States can guarantee full reflection of the opinions and views of various States and ensure the observance of the principle of State sovereignty enunciated in the United Nations Charter, thereby contributing to international co-operation among States on the basis of the principle of peaceful coexistence of States with different social systems.

70. In that connexion, the Soviet delegation feels it must express its disagreement with subparagraph (c) of the operative part of the draft resolution in document A/9409, which uses a discriminatory formula that would deprive a number of States of the opportunity to participate in the Conference.

71. The Soviet delegation has already had the opportunity to state, during the discussion of this draft resolution in the Sixth Committee, and now repeats, that the Republic of South Viet-Nam, as a sovereign State recognized by many States throughout the world, is fully entitled to participate in an international conference convened under the auspices of the United Nations, on an equal and non-discriminatory basis.

72. For those reasons, the Soviet delegation will abstain when the draft resolution as a whole is put to the vote.

73. The PRESIDENT: We shall now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 11 of its report in document A/9409. The report of the Fifth Committee on the administrative and

financial implications of that draft resolution is contained in document A/9434. I now put to the vote the draft resolution recommended by the Sixth Committee.

The draft resolution was adopted by 108 votes to none, with 11 abstentions (resolution 3104 (XXVIII)).

74. The PRESIDENT: The next report of the Sixth Committee is on agenda item 95 [A/9411]. We shall now vote on the draft resolution recommended by the Sixth Committee in paragraph 33 of the report.

The draft resolution was adopted by 119 votes to none (resolution 3105 (XXVIII)).

75. The PRESIDENT: The Assembly will now turn its attention to the report of the Sixth Committee on agenda item 97 [A/9413]. The recommendation of the Sixth Committee is contained in paragraph 3 of the report. As no vote was taken in the Committee, and if there are no objections, I shall take it that the Assembly approves that recommendation.

The recommendation was adopted.

76. The PRESIDENT: I now invite members to turn their attention to the report of the Sixth Committee on agenda item 98 [A/9414]. We shall now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 5 of the report. As the Committee adopted it without objection, I shall, if I hear no objection, take it that the Assembly also adopts it.

The draft resolution was adopted (resolution 3106 (XXVIII)).

77. The PRESIDENT: The next report of the Sixth Committee is on agenda item 99 [A/9415]. We shall now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 5 of the report. May I take it that the General Assembly adopts that draft resolution?

The draft resolution was adopted (resolution 3107 (XXVIII)).

78. The PRESIDENT: I call upon the representative of the Syrian Arab Republic, who wishes to speak in explanation of his vote.

79. Mr. ARIS (Syrian Arab Republic) (*interpretation from French*): Having studied the report of the Committee on Relations with the Host Country [A/9026], my delegation voted in favour of the draft resolution, which covers the most important aspects of this current question, in order to obviate the difficulties and draw attention to the obligations and duties of the host country under the agreement between the United Nations and the United States of America and under the Convention on the Privileges and Immunities of the United Nations and the missions accredited to it.

80. That Committee, which was established by General Assembly resolution 2819 (XXVI), is the body to which missions accredited to the United Nations can have immediate recourse when their diplomatic immunity is violated

and when their personnel is subjected to threats, insults or harassment. The fact that the Committee is in regular operation helps make the host country aware of its responsibilities, and this leads to a very marked improvement in the conditions in which missions carry out the tasks entrusted to them by their Governments.

81. Until this morning my delegation has not ceased to be threatened and harassed by anonymous telephone calls from the Jewish Defense League and other Zionist organizations, and those responsible have unfortunately gone unpunished. My delegation, through the Committee on Relations with the Host Country, requests the authorities of the host country to take effective measures to put an end to those threats and to all forms of harassment so as to ensure the conditions necessary to enable our delegation to work normally, to guarantee the security of our staff, and to prosecute and punish those responsible. If the security of accredited missions continues to be threatened, the question of relocating the Headquarters of the Organization will have to be considered.

82. The PRESIDENT: The last report of the Sixth Committee for consideration this morning concerns agenda item 92 [A/9408]. We shall now vote on the draft resolution recommended by the Sixth Committee in paragraph 54 of the report.

The draft resolution was adopted by 121 votes to none (resolution 3108 (XXVIII)).

83. The PRESIDENT: I now call on those representatives who wish to make statements in exercise of their right of reply. In so doing I would remind them of the decision to limit the duration of such statements to 10 minutes.

84. Mr. AL-MASRI (Syrian Arab Republic): In his explanation of vote under agenda item 96 the Israeli representative repeated his Government's allegations, lies and slander against Syria in order to divert public opinion from Israel's grave violations of the Geneva Conventions.

85. Israel has categorically refused to accept and apply those Conventions, despite the repeated appeals of the International Committee of the Red Cross, and has continued to violate the most elementary humanitarian and international principles. In this connexion, my delegation would like to draw attention to the following facts.

86. First, article 118 of the third Geneva Convention provides that prisoners of war shall be released and repatriated without delay after the cessation of active hostilities. It is clear that the continuation of the occupation of the Arab lands is, by its very nature, a continuation of hostilities by Israel.

87. Secondly, on 4 December of this year the Sixth Committee adopted an amendment [A/C.6/L.970] submitted by the United Arab Emirates by 103 votes to 1. Only the Israeli delegation opposed that amendment, which "Calls upon all parties to armed conflicts to acknowledge and to comply with their obligations under the humanitarian instruments . . .".

88. Thirdly, Israel has refused and continues to refuse to recognize the applicability of the fourth Geneva Convention of 1949 to the occupied Arab territories, especially section 3 of that Convention, which contains a provision with regard to the obligation of the occupying Power to preserve the demographic, geographic and institutional character of the occupied territories.

89. Fourthly, in October of this year, during the aggressive war which was launched by Israel against Syria and Egypt, the air raids were concentrated on civilian centres, which caused many casualties among civilians, including some United Nations personnel.

90. Mr. ROSENNE (Israel): I shall reply very briefly to the statement we have just heard from the representative of Syria.

91. With regard to his last remarks, concerning the air raids on Syrian territory during the course of the war—which, as everybody knows and as the United Nations observers reported, was started on 6 October last, on the Day of Atonement, by Syrian and Egyptian aggression—that baseless charge has been dealt with *ad nauseam* in the Security Council and in the Sixth Committee, and I am not going to go into it any more now. The record speaks for itself.

92. The General Assembly will have noticed, no doubt with astonishment and dissatisfaction, that the representative of Syria did not really give any explanation or any justification for Syria's unabashed refusal to abide by its absolute and unconditional obligations—owed to us and to the international community at large—regarding the transmission of information on our prisoners of war who have fallen into its hands, or for its refusal to allow visits by delegates of the International Committee of the Red Cross, or for the introduction of unwarranted political demands. We have noted, however, with concern, that the representative of Syria considers that active hostilities are still continuing. We note this with concern because we recall that the immediate repatriation of prisoners of war was one of the bases of the cease-fire ordered by the Security Council last October, as can be seen from the records of the relevant meetings of the Security Council. We have noted this refusal, we have noted this statement, and the responsibility for the consequences rests on the Syrian authorities.

The meeting rose at 12.15 p.m.