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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK
OF ITS TWENTY-THIRD SESSION

Uruguay: working paper concerning the question
referred to in paragraphs 133 and 134 of the
report of the International Law Commission

(A/8410)

This document, prepared for transmission to the International Law Commission,
is submitted to the Sixth Committee for information.

CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST PERSONS
ENTITLED TO SPECIAL PROTECTION UNDER INTERNATIONAL LAW

The States Parties to this Convention,

Considering that the defence of freedom and justice and respect for the fundamental rights of the human person proclaimed by the Universal Declaration of Human Rights constitute basic obligations of States,

Noting the frequent occurrence of criminal acts against persons who enjoy inviolability under international law or who, by reason of their nationality or owing to the nature of the functions which they perform, may affect international relations,

Considering that such criminal acts prevent the persons in question from performing their functions in safety and disrupt normal relations between States,

Believing that it is desirable to enact provisions with a view to the progressive development of international law in the matter of international co-operation in the prevention and punishment of such acts,

Affirming that the application of the said provisions shall be without prejudice to the preservation of the institution of political asylum by those States which recognize it and, furthermore, to the maintenance of the principle of non-intervention,

Have agreed as follows:

Article 1

For the purposes of this Convention, the following acts shall, regardless of the motives by which they are prompted, be deemed to be common crimes: murder and other offences against the life and the physical and mental integrity of diplomatic and consular agents, international civil servants and other persons to whom the State is obligated to provide special protection and also extortion in connexion with such crimes, conspiracy to commit them, direct, public incitement to their commission, their attempted commission and complicity in their commission.

Article 2

The States Parties to this Convention undertake to co-operate in taking all measures which they deem to be effective in conformity with their respective laws and, in particular, those provided for in the articles below for the purpose of preventing and punishing the crimes referred to in article 1.

Article 3

Persons tried or sentenced for any of the crimes referred to in article 1 of this Convention shall be subject to extradition in accordance with the provisions of the extradition treaties in force between the Parties or, in the case of States which do not make extradition contingent upon the existence of a treaty, in accordance with their respective laws.

Article 4

Any person deprived of his liberty in application of this Convention shall benefit from the judicial guarantees of due process.

Article 5

Where a person whose extradition is sought in respect of one of the crimes specified in article 1 is not extraditable because he is a national of the State applied to or because of some other constitutional or legal obstacle to extradition, the State applied to shall be required to refer the case to the competent authorities for prosecution as if the act in question had been committed in its own territory. The decision rendered by the said authorities shall be communicated to the applicant State.

Article 6

Nothing in this Convention shall be deemed to impair the right of asylum in so far as relates to those States which recognize it as an institution under international law.

Article 7

The course to be followed in dealing with acts of extortion in connexion with the kidnapping or detention of one of the persons referred to in article 1 of this Convention shall be left to the discretion of the State concerned and shall in no case give rise to international responsibility.

Article 8

The Contracting States undertake to include the crimes referred to in article 1 of this Convention among the punishable acts giving rise to extradition in any treaty on the subject which they conclude among themselves in the future. Those States which do not make extradition contingent upon the existence of a treaty with the applicant State shall be guided by the legislative provisions of the State applied to in deciding whether the crimes referred to in article 1 of this Convention are to be regarded as extraditable crimes.

Article 9

For purposes of co-operation in the prevention and punishment of the crimes referred to in article 1 of this Convention, the Contracting States undertake to:

- (a) Take all feasible measures consistent with their respective laws to prevent preparations from being made in their territory for the commission in the territory of another Contracting State of the crimes referred to in article 1;
- (b) Exchange information and give consideration to effective administrative measures with a view to the protection of the persons referred to in article 1 of this Convention;
- (c) Afford the widest possible opportunities for legal defence to any person deprived of liberty in application of this Convention;
- (d) Seek the inclusion in their respective criminal legislation of provisions relating to the criminal acts covered by this Convention where such provisions do not already exist;
- (e) Comply as promptly as possible with requests and letters rogatory relating to the acts covered by this Convention.

Article 10

This Convention shall be open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

Article 11

This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 12

This Convention shall be open to accession by any State falling in one of the four categories defined in article 10. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 13

This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twelfth instrument of ratification or accession.

Article 14

The Secretary-General of the United Nations shall inform all States falling in one of the four categories defined in article 10 of the following particulars:

- (a) Signatures of this Convention and instruments of ratification or accession deposited under articles 10, 11 and 12;
- (b) The date of the entry into force of this Convention in accordance with article 13.

Article 15

The original copy of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified copies to all States falling in one of the four categories defined in article 10.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized for that purpose by their respective Governments, have signed this Convention.
