

part in a conference or a convention. In that connexion, the suggestion made by France was particularly interesting. The Committee should refer the final clauses to the Drafting Committee for further consideration and should ask it to provide a solution to the problem of qualification by drawing up a resolution separate from the draft convention, in which the General Assembly would invite States to accede to the convention.

69. His delegation favoured the minimum number of instruments of ratification or accession provided for in article D of the draft final articles.

70. Mr. ESSONGUE (Gabon) made an informal suggestion for the Drafting Committee concerning article A, whereby the phrase "all States" would be replaced by "States" and the comma deleted, without altering the rest of the sentence. That wording would be a compromise solution.

71. Mr. ROSENSTOCK (United States of America) considered that the apprehensions of the representative of Madagascar were unfounded, for article 19 (b) of the Vienna Convention on the Law of Treaties provided that a State might formulate a reservation to a treaty unless "the treaty provides that only specified reservations, which do not include the reservation in question, may be made". The draft convention contained no such provision and it should be concluded from that that reservations could be made to articles other than article 12.

72. Mr. STEEL (United Kingdom), at the request of the Chairman, made specific proposals concerning the points he had raised in his preceding statement. With regard to the minimum number of ratifications or accessions required, his delegation was satisfied with 10. With regard to the denunciation clause, he suggested that the Drafting Committee should take as a basis the wording of article 14 of the Convention of The Hague for the suppression of unlawful seizure of aircraft. He supported the Greek representative's suggestion, which he considered very discerning, and in that connexion suggested that the relevant provision

of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome in 1950, should be taken as a model. With regard to the question of the depositary, he wished to make it clear that it had never been his intention to exclude certain States from participation in the convention. On the contrary, it was because he wanted the convention to gain the widest possible acceptance that he had proposed the designation of several depositaries. In view of the difficulties that the "all States" formula might cause for the Secretary-General, as Mr. Stavropoulos had indicated in his statement, he suggested that article 13 of the Vienna Convention, which had already been mentioned, should be taken as a basis. For his part he would have no objection to the designation of four depositaries, as in the case of the Convention of The Hague.

73. Mr. KOLESNIK (Union of Soviet Socialist Republics) expressed regret that the statement by Mr. Stavropoulos had added to the misgivings of certain delegations. For his delegation, it was obvious that the depositary only served as an intermediary and that any difficulties that might arise had to be settled by the States. Likewise, the question of determining what entities constituted States remained, whatever the formula used. That question already arose with the "Vienna" formula and it had even arisen in the time of the League of Nations, but that had not prevented the drafting of international conventions at that time.

74. The CHAIRMAN noted that it would not be appropriate to return the draft final articles to the working group which had prepared them. He proposed that they should be referred instead to the Drafting Committee and pointed out that, although that Committee's task was limited in principle to drafting matters, it had on more than one occasion proved very helpful in enabling the delegations to conduct negotiations on substantive questions.

*It was so decided.*

*The meeting rose at 6.30 p.m.*

## 1432nd meeting

Thursday, 8 November 1973, at 11 a.m.

*Chairman:* Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1432

*In the absence of the Chairman, Mr. Shitta-Bey (Nigeria), Vice-Chairman, took the Chair.*

### AGENDA ITEM 90

**Draft convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons (*continued*)** (A/8710/Rev.1, chap.III; A/9127 and Add.1, A/C.6/421, A/C.6/L.898, A/C.6/L.902, A/C.6/L.903, A/C.6/L.905-910/Rev.1, A/C.6/L.911, A/C.6/L.912/Rev.1, A/C.6/L.913, A/C.6/L.917, A/C.6/L.919/Rev.1, A/C.6/L.928-930, A/C.6/L.932-940, A/C.6/L.943, A/C.6/L.944 and Add.1, A/C.6/L.945)

1. Mr. FUENTES IBÁÑEZ (Bolivia) said that in proposing a new text of document A/C.6/L.943 on the inclusion of the right of asylum in the draft articles in document A/8710/Rev.1, chapter III, his delegation had been moved by a spirit of conciliation and the desire to offer an alternative text that would be acceptable both to the sponsors of document A/C.6/L.928 and to the countries that did not have a legal tradition of asylum. His delegation had tried to reconcile the two opposite positions in a single article so that neither side would feel imposed upon or prevented from invoking any provisions that might be adopted on the matter. The amendment was intended to maintain the preventive and repressive force of the draft convention.

2. His delegation had tried to take into account all the objections raised at the 1430th meeting of the Committee. It was understandable that some delegations might be opposed to any provision of a restrictive or regional nature that might weaken the scope of the draft convention. The Latin American countries felt that the objections raised reflected a certain degree of real or apparent mistrust, which could only be due to lack of knowledge as to the way in which the institution of asylum had operated to date.

3. The very fact that the proposed new text exempted States parties to the convention that were not parties to the existing treaties on asylum from its provisions represented a noteworthy conciliatory effort. Any further reluctance to accept the new text could only imply a lack of confidence in the good faith of the proponent, which would mean that the essential conditions for international negotiations were absent.

4. He trusted that his statement at the 1430th meeting had allayed the misgivings expressed by the Soviet representative and had clarified the queries raised by the representatives of Jamaica and Greece. He also hoped he had met the objections raised by the French delegation.

5. Clarifying his own Government's position on the inclusion of the clause on asylum, he said that it had acted purely out of solidarity in defending a doctrine. Bolivian legislation on terrorism had been brought up to date in 1972. Any act of terrorism against innocent victims, whether persons protected under international law or common citizens, was defined under his country's penal legislation as a crime of *lèse humanité* and was subject to the severest penalties, based on the magnitude of the damage caused. If the author of one of the crimes mentioned in article 2, paragraph 1, subparagraphs (a) and (b), of the text adopted by the Drafting Committee (A/C.6/L.944/Add.1) should seek asylum in a Bolivian diplomatic mission, the head of the mission would not be able to claim that such acts were political, since Bolivian law considered them to be common crimes to which the right of asylum did not apply.

6. He hoped that the sponsors of document A/C.6/L.928 would accept his proposal in replacement of theirs, and that document A/C.6/L.943 would be adopted by consensus.

7. Mr. SANCHEZ GAVITO (Mexico) said that, despite all the criticisms that had been levelled at the Latin American amendment (A/C.6/L.928), no one could say that it had come as a surprise. The concept of asylum was set forth clearly in the Convention adopted by the Organization of American States in 1971<sup>1</sup> and used as a working document during the entire process that had culminated in the draft convention now before the Committee.

8. In his presentation of the Latin American amendment, the Colombian representative (1421st meeting) had clarified two points: (a) He had explained that the slight changes from the corresponding text in the Convention adopted by the Organization of American States had been made solely to adapt a regional text

to the broader scope of a United Nations convention. (b) He had not said that if the draft convention did not incorporate an article on asylum the sponsors of the amendment would not become parties to it; he had merely said that their Governments would have serious difficulties in signing the draft convention. The sponsors had only asked for understanding and appealed to members to make it easier for them to ratify the draft convention.

9. In the debate following the Colombian presentation, the Austrian representative (*ibid.*) had explained his misgivings regarding the amendment. The Mexican delegation (1422nd meeting), replying on behalf of the sponsors, had noted that all the criticisms of the Latin American proposal came from countries belonging to the Western group. The sponsors had therefore conducted negotiations with those countries in an effort to reach a compromise formulation. Agreement had finally been reached on a text that it had been thought would be acceptable to all the sponsors. However, not all the foreign ministries had reacted in the same manner; several of the sponsors had received instructions to vote in favour of the compromise text but not to sponsor it. The Bolivian delegation had then been asked to submit a text which could be adopted by consensus. He was very grateful to the Bolivian representative for having done so (see A/C.6/L.943). The main problem at the 1430th meeting had been that at that time some delegations had not yet received their instructions. He now wished to explain to the Bolivian representative that the sponsors were finally in a position to regard document A/C.6/L.943 as replacing document A/C.6/L.928. Although not all of them were able to vote in favour of the Bolivian text, they did feel that his efforts had been fruitful. The Mexican delegation had received instructions to vote for that text.

10. With regard to the objections raised at the 1430th meeting by the delegation of the Soviet Union, he explained that the difficulties had been due to a problem of translation, a problem of semantics. The representative of the Soviet Union had already agreed to make a change in the Russian text that would more faithfully reflect the original Spanish.

11. With regard to the observations made by the French representative at the same meeting, he stressed that the new text represented a compromise, not a capitulation. Neither the Western nor the Latin American countries were entirely satisfied with it. One of the problems was that when the French representative spoke of asylum he was not speaking of the same thing as the Latin American representatives, who always thought in terms of diplomatic asylum. It was true that France had been most generous in granting asylum, but it had always done so unilaterally, as a sovereign act of goodwill. In Latin America the right to asylum was derived from very complex treaty obligations set forth in three different conventions. Not all the Latin American countries were parties to the three conventions. Therefore, it was not possible for them to change the situation without going into very complex negotiations. The right of asylum was an integral part of their foreign policies which could not be changed unilaterally.

<sup>1</sup> See Organization of American States, *Official Records*, OEA/Ser. A/17.

12. He wished to clarify a misunderstanding concerning the negotiations on the compromise text. He had been criticized for negotiating only with the Western European countries. Those countries had been the only ones to speak against the Latin American amendment. It had been agreed that the sponsors would consult with the other regional groups as well. As members of the Drafting Committee, the representative of Colombia and he had kept the representatives of the other regional groups on the Drafting Committee informed of the progress of the negotiations, and had provided them with the compromise text as soon as it had been agreed upon. He sincerely hoped that there would not be any misunderstanding on the part of delegations with which his country had close bonds of friendship.

13. Mr. APRIL (Canada) said that his delegation could not support any amendment that referred to asylum, whether directly or indirectly, and whether of a general or a restrictive nature.

14. In the first place, it would not be appropriate to mention an institution that was regional in scope in a convention universal in scope. That was particularly true if the effect was to restrict, for a given group, the obligations imposed by the convention on the States parties as a whole.

15. Secondly, the Latin American amendment was contrary to the purposes of the draft convention. Although he realized that that amendment was not motivated by any desire to evade the obligations imposed, under certain circumstances it would have the effect of allowing the alleged perpetrator of an offence against a diplomat to escape justice.

16. Thirdly, the Latin American amendment would provide a loop-hole that would weaken the dissuasive effect of the draft convention. One of its most important aspects was that its very existence would discourage certain persons from considering an attack against a diplomat. Any reference to the possibility of asylum would be almost an invitation to potential kidnappers to avail themselves of that loop-hole.

17. Fourthly, he did not see why the Latin American countries could not follow the example they themselves had set when they had acceded to the Montreal and The Hague Conventions, which did not include provisions regarding asylum. The offences covered by those Conventions were not very different from the ones envisaged in the draft convention before the Committee.

18. Fifthly, the Latin American amendment called in question one of the basic objectives of the draft convention, namely the exclusion of offences against diplomats from the sphere of what were described as "political crimes". It seemed to him that the consensus in favour of the draft convention had been based on a generally agreed view that an offence against a diplomat should not be viewed as a political crime against one given State but as an attempt against the functioning of universally and traditionally recognized institutions that enabled States to communicate with each other; in other words, such an offence was not merely an infringement of one country's laws but an infringement of the law of nations.

19. For the above reasons, his delegation could not support the Latin American amendment. Nevertheless, it did take note of the serious efforts that had been made to accommodate delegations which like his own had raised fundamental objections or serious reservations to the original text. Although his delegation would have preferred that the amendment should be withdrawn outright, it noted with some satisfaction that the Bolivian delegation, in a spirit of compromise, in his amendment had agreed to clarify and even to restrict the scope of the Latin American amendment.

20. He noted that the Bolivian amendment made it clear that it only applied to the treaties on asylum in force at the date of the adoption of the convention; that the regional institution of asylum would only apply as between the States which were parties to the Treaties of Havana, Montevideo and Caracas; and that those Treaties could not be invoked against a State party to the convention which was not a party to them. He therefore took it that if a Canadian diplomat in one of the States parties to those treaties on asylum was the victim of one of the offences mentioned in article 2 of the draft convention, the alleged perpetrator of the offence might obtain diplomatic asylum in another State party to the treaties, but in no case would the Bolivian text mean that the alleged offender could not be extradited to Canada.

21. For the above reasons, although his delegation could not support any amendment on asylum, it did feel that, bearing in mind the clarifications provided by the Bolivian text, it would be able to abstain when the amendment was put to the vote. If, however, any of the provisions in the Bolivian amendment was substantially amended or deleted, his delegation would have to reconsider its position.

22. Mr. BONDIOLI OSIO (Italy) expressed appreciation of the efforts made by the Bolivian representative in submitting a compromise text, which his delegation could support as going a long way towards meeting its objections to document A/C.6/L.928 and as reflecting a unique legal tradition that was dear to the Latin American countries. His delegation would have to reconsider its position if the Bolivian text was substantially changed during the course of the debate.

23. Sir Vincent EVANS (United Kingdom) said that his delegation appreciated the spirit of the Bolivian compromise amendment and the goodwill of the other Latin American delegations in associating themselves with it. The United Kingdom had objected to the Latin American amendment because it regarded with the gravest apprehension any reservation which might seriously impair the attainment of the basic objectives of the draft convention. On the other hand, the strong feelings of the Latin American delegations concerning the traditional right of asylum should be respected, and the United Kingdom had agreed to consider a more limited provision on its merits. The Bolivian text seemed to meet the important considerations of the desirability of a widely acceptable convention and of an instrument which could effectively fulfil its intended purpose. The new provision had been drafted so as not to prejudice the position of States which were not parties to the existing treaties on asylum. Moreover,

it appeared from an examination of the terms of those treaties and of the statements made in the Committee that even as between the parties to the treaties they would have only a very limited, if any, application in respect of the crimes to which the convention related. Accordingly, although his delegation would have preferred the convention to contain no provision on asylum, it was prepared to accept the compromise text in a spirit of conciliation. In view of the delicate balance that had been achieved after difficult negotiation, it was to be hoped that delegations would not press the modifications they had proposed.

24. Mr. MALAN (Ivory Coast) said that, although his delegation appreciated the Bolivian effort to reach a compromise, it considered that its amendment was not satisfactory and should be further improved. The provisions of article 2 of the draft convention should apply to all States, whether or not they were parties to treaties on asylum. A further attempt should be made to render that amendment more acceptable.

25. Mr. YAÑEZ-BARNUEVO (Spain) said that his delegation, unlike those of the West European countries referred to by the Mexican representative, recognized the humanitarian character of the institution of asylum and had been prepared to accept the Latin American amendment, on the understanding that under general international law the provisions of the convention governed relations between the parties to the existing treaties on asylum. Now that that understanding was made explicit in the Bolivian amendment, his delegation could support the new article without reservations. It would, however, like to make a drafting suggestion: the word "operation" did not seem to be appropriate in relation to treaties, and the Drafting Committee might consider either replacing it by the word "application" or deleting the words "the operation of".

26. Mr. RESTREPO PIEDRAHITA (Colombia) said that the sponsors of the Latin American amendment were gratified by the reception of the Bolivian compromise text. Despite the criticisms made by the Canadian and Ivory Coast representatives, the general feeling in the Committee seemed to be in favour of that compromise, and none of the strong objections that had been raised against the initial amendment were now in evidence. Although his delegation was among those which would have preferred a text along the lines of the Latin American amendment, it could support that of Bolivia in a spirit of co-operation.

27. Miss GITHU (Kenya) said that her delegation withdrew the suggestion which it had made at the 1430th meeting for the deletion of the words in the Bolivian amendment "at the date of the adoption of this Convention", in the interests of reaching agreement on the most widely acceptable text. Nevertheless, it would be obliged to abstain in the vote on that amendment because of the restriction it placed on the application of the convention.

28. Mr. FUENTES IBÁÑEZ (Bolivia) thanked the sponsors of the Latin American amendment for accepting his delegation's text as a substitute for their own and expressed his gratification at the support given to the compromise article.

29. The CHAIRMAN said that there seemed to be no objection to the Bolivian text (A/C.6/L.943) and suggested that it should be referred to the Drafting Committee for final redrafting.

*It was so decided.*

30. The CHAIRMAN invited the Committee to consider separately the preamble and articles 1, 2, 2A, 3-8 and 10-12 of the draft convention approved by the Drafting Committee (A/C.6/L.944 and Add.1).

#### *Preamble*

31. Mr. ŠAHOVIĆ (Yugoslavia), Chairman of the Drafting Committee, said that that Committee had held as many as 26 meetings in an attempt to reach a consensus on all the amendments and suggestions submitted to it. A number of widely divergent views had ultimately been reconciled, but certain delegations had reserved their positions on various points and intended to submit amendments to the Committee. Stylistic and drafting changes would be made after the Sixth Committee had adopted all the articles.

32. The working group had submitted a draft preamble (A/C.6/L.939) to the Drafting Committee, with certain ideas and suggestions. The Drafting Committee had accepted a Ukrainian suggestion to include a reference to the maintenance of international peace in the first paragraph and had amended the second and fourth paragraphs to take into account suggestions by the Japanese and Paraguayan delegations. On the other hand, it had not accepted a Spanish suggestion to add two paragraphs reaffirming the rules of international law relating to respect for the life, integrity and liberty of an internationally protected person, since that idea was covered in article 2.

33. Mr. KASEMSRI (Thailand) suggested that the words "jeopardizing the safety of these persons" should be deleted from the second preambular paragraph. Liberty, in addition to personal safety, was referred to in article 2, and a restrictive reference to safety in the preamble might be open to misinterpretation.

34. Mr. SIEV (Ireland) suggested that a new preambular paragraph should be added affirming that the rules of customary international law continued to govern questions not regulated by the provisions of the convention. Similar clauses appeared in the preambles to the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the Convention on Special Missions and the Vienna Convention on the Law of Treaties.

35. Sir Vincent EVANS (United Kingdom) paid a tribute to the Drafting Committee and its Chairman for the skill and patience which had made it possible to prepare a satisfactory set of draft articles.

36. With regard to the Thai suggestion to delete the words "jeopardizing the safety of these persons" in the second preambular paragraph, his delegation considered that in the context liberty was one of the facets of safety. If a diplomat was deprived of his liberty, by kidnapping, for example, that would necessarily affect his safety. Furthermore, if the Thai suggestion was adopted, the amended text would then imply that crimes against diplomatic agents and other internationally protected persons, whether or not they



jeopardized their safety, would "create a serious threat to the maintenance of normal international relations". That would be going too far.

37. His delegation had not yet had sufficient time fully to consider the Irish suggestion to add a new preambular paragraph. However, he was not convinced that such an addition was necessary.

38. Mr. YAÑEZ-BARNUEVO (Spain), expressing appreciation to the Drafting Committee and its Chairman, recalled that at the 1423rd meeting, his delegation had declared that it was necessary to add new preambular paragraphs which would state unambiguously that the future convention would not cover all possible crimes against internationally protected persons, because its aims were simply to establish specific machinery applicable in certain particularly serious cases. In that regard he had suggested the addition of the following two paragraphs at the end of the preamble:

*"Reaffirming the rules of international law relating to respect for and guaranty of the life, person, liberty and dignity of diplomatic agents and other internationally protected persons,*

*"Declaring that the present Convention will not affect in any way any other rule of international law that may be applicable to these cases,"*

His delegation had pointed out that a safeguard clause appeared in the preambles of the Vienna Conventions on Diplomatic Relations and on Consular Relations. While the scope of those Conventions was broader than the draft convention under consideration, the specific and general rules of international law nevertheless applied. The Spanish suggestion represented a different formulation of the substance of that of Ireland. The Chairman of the Drafting Committee had said that part of the Spanish suggestion had been incorporated in article 2 of the draft convention as adopted by the Drafting Committee; however, article 2, paragraph 3, applied only to the preceding two paragraphs of the same article and not to the convention as a whole. His delegation had advocated the inclusion of a safeguard clause in the preamble that would apply to the convention as a whole. Alternatively, such a safeguard clause might be incorporated as a separate article.

39. Mr. KRISPIS (Greece), after expressing appreciation to the Chairman and members of the Drafting Committee, said that he supported the Irish suggestion. Although such an addition might not be absolutely necessary, it would be useful, even if it was only a statement of the obvious. There would be nothing to lose and much to gain by accepting the Irish suggestion.

40. Mr. RAKOTOSON (Madagascar) expressed concern with regard to the wording of the second preambular paragraph. His delegation did not feel that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of those persons should be thus highlighted as creating "a serious threat to the maintenance of normal international relations" which were "necessary for co-operation among States". There were other and far more serious acts which presented a threat to inter-

national relations, and attention should be focused on them.

41. Mr. STEPHANIDES (Cyprus), expressing appreciation to the Chairman and members of the Drafting Committee, suggested that, in the English text, the word "Party" at the beginning of the preamble should be replaced by "Parties".

42. Mr. KASEMSRI (Thailand), thanking the Chairman and members of the Drafting Committee for their dedicated efforts, said that in proposing the deletion of the words "jeopardizing the safety of these persons" in the second preambular paragraph, he had not meant to imply that all crimes against diplomatic agents and other internationally protected persons created "a serious threat to the maintenance of normal international relations". The idea his delegation had intended to convey was already reflected in the operative paragraphs of the text. He would not press his proposal for deletion, but he suggested that the words "or liberty" should be inserted after the word "safety" or that, alternatively, the words "jeopardizing the safety of these persons" should be deleted and the word "certain" inserted before the word "crimes".

43. Mr. KOLESNIK (Union of Soviet Socialist Republics) paid a tribute to the Chairman of the Drafting Committee for the work done. He hoped that the Drafting Committee would revise the Russian text of the second preambular paragraph, the present wording of which was unfortunate. His delegation endorsed the substance of that paragraph as prepared by the Drafting Committee. It was an incontrovertible fact that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of those persons created a serious threat to the maintenance of normal international relations which were necessary for co-operation among States. That was the reason why the General Assembly at its twenty-sixth session (resolution 2780 (XXVI)), had requested the International Law Commission to prepare draft articles on the topic now under consideration. There were of course other acts which could threaten international relations, but those acts were not the subject of the present draft convention.

44. He supported the suggestions of Ireland and Spain. The inclusion in the preamble of a reference to the rules of international law relating to respect for and guaranty of the life, person, liberty and dignity of diplomatic agents and other internationally protected persons and to other rules of international law would be most apposite. There should be no objection to the inclusion of such a reference, since no harmful consequences could ensue therefrom.

45. Mr. CASTILLO ARRIOLA (Guatemala), associating himself with the expressions of appreciation to the Drafting Committee, said he was in favour of retaining the wording in the second preambular paragraph adopted by the Drafting Committee. He understood the word "safety" as a broad concept covering liberty and dignity. If the Committee wished to add the words "or liberty" after the word "safety", as the Thai representative had suggested, the word "integrity" would also have to be added.

46. He supported the Spanish suggestion for the insertion of two additional preambular paragraphs.

47. Mr. ŠAHOVIĆ (Yugoslavia), Chairman of the Drafting Committee, reiterated that the text still had to have the finishing touches added. The Drafting Committee would take due account of the suggestions made at the current meeting. It had discussed at length the wording of the second preambular paragraph; it had taken the initial text referred to it by the Sixth Committee and made some changes in it; and it felt that the text as at present worded reflected accurately all the general trends which had emerged in the debate in the Sixth Committee. He felt that it would be better not to change the wording of the second preambular paragraph at the present stage. He understood the Thai representative's reasons for making his suggestion but felt that the explanations given by the Guatemalan representative were very pertinent arguments in favour of the text adopted by the Drafting Committee.

48. He agreed with the representative of Spain that the Irish suggestion was fully consonant with that made by Spain at the 1423rd meeting. Although the substance of the Spanish suggestion had been incorporated in article 2, paragraph 3, he could understand the Spanish

representative's reasons for desiring the insertion of a general clause concerning the rules of international law to be observed in cases covered by the convention. The Spanish representative might perhaps submit a formula to serve as a basis for more detailed discussion in the Sixth Committee.

49. Mr. KASEMSRI (Thailand) said that having heard the Chairman of the Drafting Committee explain the wording of the second preambular paragraph, he would not insist on his suggestions concerning that paragraph.

50. Mr. CASTILLO ARRIOLA (Guatemala) asked the Chairman of the Drafting Committee to consider whether it might not be more suitable, in the Spanish text, to replace the words "*al poner*" by the words "*que ponen*". In the Spanish text at least, that should cover the point raised by the representative of Thailand.

51. Mr. SIEV (Ireland), replying to a question asked by the Chairman said that he would submit his proposal in writing<sup>2</sup> the same afternoon.

*The meeting rose at 1 p.m.*

<sup>2</sup> Subsequently circulated as document A/C.6/L.947.

## 1433rd meeting

Thursday, 8 November 1973, at 3.30 p.m.

*Chairman:* Mr. Sergio GONZÁLEZ GÁLVEZ (Mexico).

A/C.6/SR.1433

*In the absence of the Chairman, Mr. Shitta-Bey (Nigeria), Vice-Chairman, took the Chair.*

### AGENDA ITEM 90

**Draft convention on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons (*continued*)** (A/8710/Rev.1, chap.III; A/9127 and Add.1, A/C.6/421, A/C.6/L.898, A/C.6/L.902, A/C.6/L.903, A/C.6/L.905-910/Rev.1, A/C.6/L.911, A/C.6/L.912/Rev.1, A/C.6/L.913, A/C.6/L.917, A/C.6/L.919/Rev.1, A/C.6/L.921-930, A/C.6/L.932-940, A/C.6/L.943, A/C.6/L.944 and Add.1, A/C.6/L.945-947)

*Preamble (concluded)*

1. Mr. YAÑEZ-BARNUEVO (Spain), introducing document A/C.6/L.946, containing the two preambular paragraphs which his delegation proposed for addition to the draft articles in document A/8710/Rev.1, chapter III, recalled that at the previous meeting several delegations, including those of Ireland, Greece, USSR and Guatemala, had supported the idea of completing the draft preamble approved by the Drafting Committee (see A/C.6/L.944). Despite their similarity, the two proposed paragraphs related to separate, complementary concepts. The first was designed to provide legal justification for the draft convention, by basing it on existing rules of international law such as those contained in article 29 of the Vienna Convention on

Diplomatic Relations,<sup>1</sup> which related to the protection of diplomatic agents. Although the draft convention did not cover all possible attacks on a diplomatic agent but only serious attacks on his physical integrity and freedom, the general obligation to prevent attacks on his person, freedom and dignity remained. With regard to the second paragraph, the other rules of international law that might be applicable would not be affected in any way by the new convention. He had intentionally not called international law "general" or "customary", since his delegation did not favour either qualification.

2. Mr. SIEV (Ireland), introducing document A/C.6/L.947, which contained the paragraph that his delegation would like to see added to the draft preamble approved by the Drafting Committee, recalled that he had already given his reasons at the previous meeting. He thanked the delegations that had supported his proposal and expressed the hope that the amendment would be submitted to the Drafting Committee for its consideration.

3. Mr. SARACHO (Argentina), referring to the second paragraph of the draft preamble, suggested that the words "because of the representation vested in them" should be inserted between the words "persons" and "create" in order to emphasize the fact that the protection to which such persons were entitled was due to the representation vested in them. In that

<sup>1</sup> United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.