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RESPECT FOR HUMAN RIGHTS IN ARMED CONFLICTS

PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS
MISSIONS IN AREAS OF ARMED CONFLICT

Report of the Secretary-General

Addendum

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ARGENTINA

/Original: Spanish/
17 September 1971

The preliminary draft international convention on the protection of journalists engaged in dangerous missions, considered by the Commission on Human Rights at its last session and subsequently adopted by the Economic and Social Council, which decided to transmit it to the General Assembly for discussion at its twenty-sixth session, has been studied with great interest by the Argentine Government, which broadly speaking agrees with its provisions.

It considers, however, that the terms "journalist" and "dangerous mission" have not been sufficiently clearly defined. In this respect, it finds a more appropriate definition of the terms in chapter I, paragraphs 3, 4 and 5 of the preliminary draft convention for the protection of journalists engaged in dangerous missions prepared by the International Commission of Jurists and adopted at the Montecatini Congress in May 1968, as follows:

"3. The word 'journalist' shall mean any correspondent, reporter, photographer, cameraman or press technician who has been duly accredited, in accordance with the provisions of this Convention.

"4. The word 'press' shall mean the following information media: press agency, daily newspapers and periodicals, radio, television and newsreels.

"5. The words 'dangerous mission' shall mean any mission undertaken by a journalist to obtain information, in which his life, physical integrity or freedom are or may be in danger. This definition of dangerous mission is applicable principally in cases involving the coverage of declared or undeclared war, civil war, guerilla operations, riots or demonstrations."

AUSTRALIA

[Original: English]
29 September 1971

Australia welcomed the initiative taken in General Assembly resolution 2673 (XXV) and voted in favour of it. Australia strongly supports the preparation of an international agreement which will seek to ensure better protection of journalists engaged on dangerous missions.

The Australian authorities have carefully considered the text of the draft agreement prepared by the Commission on Human Rights and are in broad agreement with its objectives. In an endeavour to assist in the preparation of an international agreement on this item, the Australian authorities considered that it might be helpful if they were to submit a revised text of the Commission on Human Rights draft. This text is attached as annex A. It will be seen that the revised text takes up many of the suggestions put forward in the Commission's draft. Many of the changes incorporated in the revision simply seek to clarify and improve the drafting of terminology. Others, for example in regard to the identification of journalists in the field, are intended to make the draft more specific.

The following is a commentary on the revisions of substance. The article numbers refer to the Australian draft.

Article 1

The Commission on Human Rights draft has been altered so as to conform more closely with the purpose of the Convention, as expressed in the title and in the fourth paragraph of the preamble of resolution 15 (XXVII).

Article 2

We have amended the conditions under which a journalist would be entitled to the protection of the Convention. The formula - "for the purpose of gathering information for dissemination through a medium of public information" - is too loose. Substitution of "proper journalistic activity" reinstates the necessary right of national authorities to determine whether a journalist is entitled to be present at an armed conflict and upon what terms.

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Article 3

The subject-matter of the Convention is part of the whole CORPUS of human rights, for the protection of which there already exists a United Nations organ. That organ is enabled (rules 66-71 of the Rules of Procedure of the Functional Commissions of the Economic and Social Council - document E/4767, 1970) to establish sub-commissions and the overseeing of this Convention would seem to be an appropriate function for such a sub-commission. It is also relevant that this Convention originated in the Commission on Human Rights. However, if the sub-commission issued the safe conduct cards, there could be problems if it decided to reject applications.

We consider that the issue of the safe conduct card by a national authority has overwhelming practical advantages. It would be unreasonable (and administratively very costly) to expect that an international committee would be able to issue thousands of safe conduct cards. There would need to be some procedure for the issue of cards during the intervals between committee meetings. If, in the interests of speed and efficiency, the secretariat were empowered to do so, this would deprive the international committee of any necessary function. National issue also emphasizes the intended protective role of the safe conduct card. Further, since the Convention should be self-explanatory and self-contained, we consider that the conditions attaching to the card, and the functions of the relevant issuing and overseeing authorities, should be defined in the Convention. If such matters were left for definition by an undefined international committee, the subsequent protocol to be annexed to the Convention might not be acceptable to States and would inhibit their adhering to either instrument.

It is necessary that there be an international body and that it should have general supervisory functions (see our article 10(4)), if the international purpose of the Convention is to be effective in any way amongst States.

Article 5

The provision in the Commission on Human Rights draft seems impracticable since it would require a journalist to apply for a new card upon each change of area of operation, and the circumstances of such change might make this impossible. A specified duration and universal validity, with provision for renewal, is more

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reasonable. This form would not prejudice the rights of States to determine whether there was an armed conflict at which a journalist might claim legitimately to be present.

Article 6

Forgery cannot be prevented, but we consider authentication is necessary if the card is to carry any weight.

It is usual for a foreign correspondent so to equip himself (valid passport, current vaccinations, etc.) for travel at short notice that one could reasonably expect him to hold a current safe conduct card. In any event, should he wish to avail himself of the protection of the Convention, he should be obliged to comply with the requirements it places upon him.

We do not consider that States would be competent to issue cards in respect of nationals of another country, both because of problems of identification and because it would be beyond their jurisdiction.

Article 7

This is designed to make the purpose of the article more explicit. A card may be valid in the terms required by the Convention without necessarily being recognized by a party to the conflict.

Article 8

Reference to "competent authority" has been deleted, because it is not clear.

In pursuance of a self-explanatory and self-contained instrument, we consider that the distinguishing mark should be described in the Convention. (See article 9.) Otherwise we should be faced with an incomplete convention, an important element of which required future definition.

Article 9

We consider that the colours proposed would be the most readily distinguishable combination. It has been the practice of journalists in battle areas essentially for practical reasons, to wear military uniform which makes

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them indistinguishable from members of armed forces. This practice would in fact jeopardize their proposed safe conduct status under this Convention. It is therefore proposed to prohibit it.

Article 10

As the obligations incumbent on parties to the conflict and on States Parties to this Convention would not necessarily be identical, we consider it appropriate that they should be dealt with separately.

Combatants could not be expected to cease military operations while a journalist identified himself. However, once a journalist has been identified the remainder of the provisions become practicable.

Each State's own nationals, who are journalists, in time of armed conflict, would have no right of protection over and above that of other citizens, hence an alien journalist could not be entitled to any special protection. Because the precise obligation intended by this clause is not clear to us we have advanced the obligation which is the most practicable - and the most that could be reasonably fulfilled - in time of armed conflict.

Article 11

The obligations of a State Party to the Convention are not necessarily those of a party to an armed conflict. One of the ways in which international humanitarian law might come to be applied during armed conflicts is through the pressure of the international community or of friendly States on the participants. We therefore seek to induce States to accept such a role in respect of this Convention. It would also be open to States Parties to the Convention but not parties to an armed conflict, to discharge the notifying and humanitarian functions of the Convention.

Articles 12, 13 and 14

These articles are self-explanatory.

DRAFT INTERNATIONAL AGREEMENT ENSURING THE PROTECTION OF
JOURNALISTS ENGAGED IN DANGEROUS MISSIONS: SUBMITTED BY
AUSTRALIA

Article 1

The protection afforded by this Convention shall extend to journalists who hold the safe-conduct card provided for in article 5 while engaged in dangerous missions.

It shall not extend to war correspondents covered by the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

Article 2

For the purposes of the application of this Convention:

- (i) The word "journalist" shall mean any correspondent, reporter, photographer, cameraman or press technician who is ordinarily engaged in any of these activities as his principal occupation; and
- (ii) The words "dangerous mission" shall mean any proper journalistic activity in an area where there is armed conflict.

Article 3

There shall be a sub-commission of the United Nations Commission on Human Rights to be known as the Sub-Commission for the Protection of Journalists Engaged in Dangerous Missions.

Article 4

The Sub-Commission shall make regulations prescribing the form and content of the safe-conduct card which shall be issued to journalists in accordance with this Convention.

The Sub-Commission shall bring to the attention of all States the form and content of the card and an exact description of the distinguishing mark provided for in article 9.

Article 5

The safe-conduct card shall certify the status of the journalist and in particular shall bear his photograph and state his name, the date and place of his

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birth, his usual residence and his nationality. It shall be valid for a period of twelve (12) months from the date of issue. It may be renewed annually whilst its holder remains a journalist.

Article 6

Each State Party to this Convention shall be responsible for the issue, withdrawal, renewal and authentication of safe-conduct cards.

Safe-conduct cards may be issued only to journalists who are nationals of the issuing State.

Article 7

All parties to an armed conflict shall recognize a duly authenticated and current safe-conduct card and the distinguishing mark provided for in article 9 and they shall give effect to them as required by this Convention.

Article 8

A journalist who holds a safe-conduct card and who is engaged in a dangerous mission shall produce the card when necessary to secure the protection of this Convention.

A journalist who holds a safe-conduct card may wear the distinguishing mark described in article 9.

Article 9

There shall be a distinguishing mark which shall consist of the letter J in black on a gold circular background. The mark shall, if worn, be displayed on the left upper arm.

A journalist who holds a safe-conduct card shall not wear clothing which resembles the military uniform of any of the belligerents.

Article 10

Upon the identification of a journalist as one who holds a safe-conduct card all parties to the conflict shall:

(1) Extend to him reasonable protection of his person from the immediate dangers of the conflict;

(2) Apply, in the event of his internment, the regulations for the treatment of internees laid down in the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and make public the internment order;

(3) Make public any information concerning his wounding or death;

(4) Inform the Sub-Commission for the Protection of Journalists Engaged in Dangerous Missions without delay of his internment, wounding or death.

Article 11

Each State Party to this Convention shall use its best endeavours to ensure that the provisions of this Convention are observed.

Article 12

The application of this Convention shall not affect the legal status of parties to a conflict.

Article 13

This Convention shall not affect national laws with respect to the crossing of frontiers or the movement or residence of aliens.

Nothing in this Convention shall confer on a journalist who holds a safe-conduct card any right or privilege save and except as prescribed by this Convention.

Article 14

None of the provisions of this Convention shall derogate from the provisions of the Geneva Conventions of 12 August 1949.

LEBANON

/Original: Arabic/English/
17 September 1971

The Ministry of Information warmly welcomes the proposal to conclude an international convention ensuring the protection and safe conduct of journalists engaged in dangerous missions as a practical and effective means of implementing the principle of freedom of information, a principle to which Lebanon is very strongly attached. The Ministry supports the proposed draft convention in principle and will give it full attention, especially since existing Lebanese laws concerning foreign journalists grant them many of the rights and facilities provided for in the draft convention and accord them the same privileges as Lebanese journalists enjoy. The Ministry, which would welcome adoption of the Convention by the United Nations General Assembly at its forthcoming session, hopes that the following observations will be given consideration:

1. The term "journalist", as used in article 2, should be defined more clearly and precisely, in order to make it plain what are the basic general requirements which a person must fulfil in order to qualify for the status of journalist and be granted the special "safe-conduct card".
2. The term "armed conflict", as used in article 2, must also be defined clearly, in order to remove the present vagueness and ambiguity. The decision as to whether a state of armed conflict exists must not be left to the judgement of the authority responsible for issuing the "safe-conduct cards", because there would then be a risk of the Convention's being misapplied.
3. It is of particular importance to include provisions governing the composition of the International Professional Committee for the Protection of Journalists Engaged in Dangerous Missions and the definition of its functions. The countries of the area where there is an armed conflict should have the opportunity of being represented on the Committee.
4. It should be specified that one of the duties of the States Parties to the Convention is to guarantee the right of journalists to transmit the information they gather and to facilitate the exercise of this right.

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5. The Convention should also define the obligations devolving upon journalists as a counterpart to the rights which they enjoy by virtue of the Convention in the country where they are working, so as to safeguard the interests and general security of the country concerned.
