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at 10 a.m.  
New York

SUMMARY RECORD OF THE 18th MEETING

Chairman: Mr. TUERK (Austria)

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ORGANIZATION OF WORK

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 139: MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES  
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- (a) REPORT OF THE SECRETARY-GENERAL (continued)
- (b) CONVENING, UNDER THE AUSPICES OF THE UNITED NATIONS, OF AN INTERNATIONAL CONFERENCE TO DEFINE TERRORISM AND TO DIFFERENTIATE IT FROM THE STRUGGLE OF PEOPLES FOR NATIONAL LIBERATION (continued) (A/44/398, 456, and 578; A/C.6/44/L.2)

1. Mr. ROMPANI (Uruguay) said that all the problems raised by agenda item 139 could be reduced to those of characterizing international terrorism and studying the underlying causes that gave rise to it. A brief review of the many reports produced by the Ad Hoc Committee on International Terrorism showed that the problem was to characterize the offence of terrorism, and international terrorism in particular. Characterizing an offence was much more than defining a word. Everyone present knew what terrorism was, but also understood the difficulty of defining it. It seemed improbable that a definition could be arrived at by holding an international conference. On the other hand, no body was better qualified to produce a definition than the International Law Commission, whose excellent report (A/44/10) contained a chapter on crimes against the peace and security of mankind, which should include international terrorism.

2. At least two classes of definitions were recognized, the analytical and the synthetic. But it did not seem possible to describe the characteristic content of the offence of terrorism logically by a definition of either type. Calling it a crime or an offence was not the same thing as defining it. On the other hand, it had been possible to characterize particular actions that constituted terrorist acts. That was shown by the various international conventions listed in the annex to the report of the Secretary-General (A/44/456). However, the actions to which such conventions referred and all the other acts that could be perpetrated in the commission of international terrorism were covered by the domestic legislation of most countries, including his own. An examination of Uruguay's Criminal Code showed that it covered all of the forms and modalities of what might be understood as "international terrorism". Such violations could not be camouflaged in any way by the motives that might be adduced as justification for specific offences.

3. As for the underlying causes of terrorism and acts of violence, they resembled the psychological complexes made famous by Freud. Penal policy recognized such causes as being extenuating or exculpatory. It was therefore clear that terrorism could be deterred, prosecuted, punished or vindicated without departing from the normal paths of criminal law.

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4. Mr. HOHENFELLNER (Austria) said that he strongly supported the Legal Counsel's suggestion that in future the report of the Secretary-General on the item under consideration might regularly contain an expanded annex on the state of signatures and ratifications of and accessions to the relevant international instruments because such information was very useful, especially to treaty departments of foreign ministries.
5. In the past two years, the international community had considerably strengthened its efforts to combat international terrorism by the adoption of new legal instruments and a number of practical measures. Despite that, serious terrorist acts seemed to be on the increase. In Austria's view, such acts could not be excused or justified, whatever their motivation. Political aims had to be attained by peaceful means within the framework of the institutions created by the international community. There were limits to the use of force in every form of human conflict and individual acts of terrorism could not be tolerated because they exceeded those limits.
6. The international community and the United Nations in particular must strive to eliminate the causes of terrorism. At the same time, action against terrorism had to be stepped up by a combination of national measures and better international co-operation, because terrorist acts struck at the foundations of civilization and could jeopardize international relations and security.
7. The many forms taken by international terrorism had made it necessary to elaborate new legal instruments to combat them. Austria had therefore welcomed and was ratifying the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed at Montreal on 24 February 1988, and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation adopted in Rome on 10 March 1988. Important steps had also been taken to combat international terrorism by the Conference on Security and Co-operation in Europe, the Council of Europe and the Ninth Conference of Heads of State or Government of Non-Aligned Countries held at Belgrade.
8. Despite the international community's measures, further efforts were required to combat international terrorism. Austria therefore welcomed Security Council resolution 635 of 14 June 1989 on devising an international régime for the marking of plastic or sheet explosives to make them detectable. An international convention on the subject was of the greatest importance and his country would co-operate wholeheartedly in formulating one within ICAO. Austria also gave its full support to Security Council resolution 638 of 31 July 1989 directed against the odious terrorist practice of hostage-taking and abduction.
9. Because it was important for the international community to give a clear sign that all States unanimously rejected all terrorist acts, methods or practices, Austria hoped that the General Assembly would be able to adopt a resolution based on the draft contained in document A/C.6/44/L.2 by general agreement without a vote. The international community could ill afford to appear divided on such a crucial issue.

(Mr. Hohenfellner, Austria)

10. On the question of convening an international conference under United Nations auspices to define terrorism and differentiate it from the struggle of peoples for national liberation, Austria considered that such an exercise would only be useful if there was broad consensus that it could indeed contribute to solving the problem. Austria had serious doubts whether it would be possible to achieve an agreed definition of terrorism at the current stage, and that should not be overlooked by the Committee when the time came for it to take its decision.

11. Mr. KIRSCH (Canada) said that it had never been easy for States to reach consensus on instruments dealing with acts of terrorism. The fact that general agreement had consistently been reached in a number of cases in less than two years was quite revealing, inasmuch as it demonstrated the deep and persistent concern of States over terrorism. Indeed, the threat of terrorism had not disappeared, and certain of its manifestations had increased; hostage-taking was a case in point. The degree of agreement that was currently apparent in efforts to combat terrorism showed that States continued to agree that those acts must be unequivocally condemned and punished. It also revealed that the international community remained confident that the basic approach that had been followed for a long time was the right one. That approach, which consisted of identifying specific acts of terrorism and of taking various measures against them by means of specific instruments, was more effective and more acceptable to different categories of States than attempts to deal with the problem globally, none of which had yet been successful.

12. With regard to the proposal to convene a conference to define terrorism and to attempt to distinguish it from the struggle of national liberation movements, his delegation was convinced that despite the good intentions of those who had made the proposal, such a conference could not serve a useful purpose and could be damaging by creating new, unnecessary divisions. His Government did not believe that a new attempt to define terrorism at the current stage could be any more successful than past attempts. Whether a particular act was or was not an act of terrorism did not depend on who committed it. It was difficult to understand why there was a need to distinguish between the struggle of liberation movements and terrorism, when major liberation movements themselves had taken the lead in renouncing terrorism as part of their action. The proposal cultivated an unnecessary ambiguity and benefited no one.

13. His delegation therefore believed that the course of action followed by the international community, of developing and applying specific instruments, remained a wiser and more constructive one. In that connection, he welcomed the forthcoming development by ICAO of an international régime for the marking of plastic or sheet explosives for the purpose of detection.

14. Canada was one of the sponsors of draft resolution A/C.6/44/L.2 because it considered the draft resolution to be a sober and balanced summary of international achievements and goals in the field of anti-terrorism. He wished to draw attention especially to the opening operative paragraph, which once again unequivocally condemned all acts, methods and practices of terrorism. That must be a guiding

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(Mr. Kirsch, Canada)

principle of the Committee's work, an indispensable framework for dealing with the challenge. The draft also dealt with many of the principles and developments he had already mentioned.

15. He wished to make a few observations on one particular aspect of the draft resolution which his delegation considered to be of vital importance. The draft resolution properly encouraged States which had not yet done so to become parties to the conventions designed to prevent and punish acts of terrorism. Indeed, the development and general acceptance of legal instruments were essential steps in international co-operation against terrorism. A legal instrument, however, was not an end in itself. In that connection, the draft resolution urged all States to fulfil their obligations under international law and, in particular, to take promptly all steps necessary to implement the international conventions on the subject to which they were parties. Too often, States had ignored their international obligations, releasing alleged offenders and thereby undermining the often difficult work that had been carried out by the international community. The offences covered in the international instruments were international crimes which States were bound to punish. It was not an exaggeration to say that that principle was quickly becoming one of customary international law, particularly in the realm of interference with international civil aviation, due to the broad acceptance of the conventions involved.

16. Occasionally, States released or agreed to release offenders under the duress of hostage-taking. In the view of his delegation, the validity of commitments made under such circumstances was questionable under basic legal principles. Moreover, States were in breach of their international obligations when they released offenders unpunished after an incident had ended or when they granted pardons to offenders after duress had come to an end. From an international point of view, prisoners who had committed international crimes and were pardoned under duress were simply criminals who had not completed their sentences and had succeeded in escaping through illegal means. To take any other position simply created a loophole too large for the international community to accept.

17. The simple message was to apply the existing conventions effectively; in doing so, great strides could be made in combating terrorism. To do so was to uphold the priority of international law and to rely on peaceful and judicial settlement of international disputes. His delegation had been heartened recently to learn about discussions between the United States and the Soviet Union to apply the compulsory jurisdiction of the International Court of Justice to possible disputes in the realm of terrorism. Application of existing conventions and reliance on existing mechanisms to settle judicially any disputes that might arise out of those conventions was the simple formula that his delegation advocated for the years ahead.

#### ORGANIZATION OF WORK:

18. The CHAIRMAN said that it appeared from the informal consultations he had carried out with members of the Committee that there was a widespread feeling that a working group on International Law Commission matters should not be

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(The Chairman)

institutionalized and that there was no compelling reason to establish such a working group at the current session of the General Assembly. At the same time, it was felt that there might be a need to establish it in 1990. There was also general support for the idea that the Chairman of the Sixth Committee should arrange in due course informal consultations on the draft resolution relating to the report of the International Law Commission, as well as on any issue delegations deemed useful to discuss in the framework of such informal consultations with a view to facilitating consideration of the items on the agenda.

The meeting rose at 11.15 a.m.