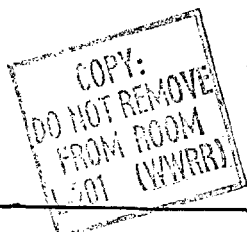


GENERAL ASSEMBLY

THIRTY-FIRST SESSION

Official Records*



DEC 14 1976
COMMISSION

SIXTH COMMITTEE
65th meeting
held on
Tuesday, 7 December 1976
at 3 p.m.
New York

SUMMARY RECORD OF THE 65th MEETING

Chairman: Mr. MENDOZA (Philippines)

CONTENTS

AGENDA ITEM 113: 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: REPORT OF THE AD HOC COMMITTEE ON INTERNATIONAL TERRORISM (continued)

AGENDA ITEM 112: IMPLEMENTATION BY STATES OF THE PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961: REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 109: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY
(continued)

* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room LX-2332.

Corrections will be issued shortly after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/31/SR.65
9 December 1976

ORIGINAL: ENGLISH

/...

The meeting was called to order at 3.25 p.m.

AGENDA ITEM 113: 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: REPORT OF THE AD HOC COMMITTEE ON INTERNATIONAL TERRORISM (A/9028, A/31/122, A/31/182, A/31/188) (continued)

1. Mr. OKWONGA (Uganda), speaking in exercise of the right of reply, said that his delegation categorically rejected the malicious allegation to the effect that Uganda had connived with or assisted the hijackers of the French airbus to Entebbe. Contrary to what the Zionist representative would have people believe, his Government was opposed to all forms of terrorism and had granted permission for the hijacked plane to land purely on humanitarian grounds and at the request of the French Government. Any imputation concerning the Ugandan Government's involvement should be viewed as an attempt to justify the Zionist aggression on Uganda, which had been condemned by the Organization of African Unity and the Fifth Conference of Heads of State or Government of Non-Aligned Countries.

2. It would appear that the Security Council's failure to condemn the aggression, due to the efforts of the Zionist sympathizers, had prompted the representative of Israel to state that the action of its armed forces had been justified in international law. That statement was absurd, as the action fell within the definition of aggression adopted by the General Assembly in its resolution 3314 (XXIX). It was clear from the book Ninety Minutes at Entebbe that Israeli authorities had started military preparations for an attack on Uganda even before the hijackers had made their demands known. Israel should therefore be condemned for violating the sovereignty and territorial integrity of Uganda. The conclusion to be drawn from the Israeli representative's statement in justification of his country's raid on Entebbe was that Israel was in favour of terrorism. The Committee should take a serious view of that statement. State terrorism, for which the Israeli representative had shown a marked preference over individual or group terrorism, deserved special attention, because of its far-reaching effects on international peace and security.

3. His delegation was prepared to support any effective action aimed at combating all forms of terrorism; such action could be taken only if the study of the underlying causes was an integral part of the measures contemplated.

4. Mr. MEISSNER (German Democratic Republic) said that nothing could justify Israel's violation of Uganda's sovereignty and territorial integrity. The Israeli representative would be mistaken if he believed he could divert attention from that and other violations of international law by slanderous attacks on other States. The German Democratic Republic had been founded by persons who had been in concentration camps and fascism had been completely eradicated from the country. Moreover, his Government was known for its solidarity with the peoples fighting for their freedom.

/...

5. Mr. JACHEK (Czechoslovakia), speaking in exercise of the right of reply, said that it was precisely because of Czechoslovakia's tradition of humanitarianism that he had cited Entebbe as an example of the very dangerous actions of international terrorism which had become a characteristic feature of Israel's official policy. He categorically rejected the unfounded Israeli attacks against Czechoslovakia and other socialist countries, pointing out that, in view of its own actions, Israel had no right to claim to speak on behalf of humanitarianism.
6. Mr. BLUM (Israel), speaking in exercise of the right of reply, said that the United Arab Emirates representative had not only reiterated the distorted account of the origins of the Arab-Israeli conflict, but had injected a dangerous element of religious incitement into the discussion by inventing a story of burning of crosses on victims. He cautioned that representative against introducing such elements into an already tense situation, particularly since the story was untrue, but pointed out that physical atrocities of all kinds were rampant in the Middle East beyond Israel's borders.
7. With reference to the statement that zionism had introduced terrorism into the Middle East, he recalled the anti-Jewish pogrom organized in Jerusalem in 1920 by the then Grand Mufti of that city - who had been wanted by the Allies after the war for his complicity in Nazi war crimes - the murder of more than 60 Talmudic students in 1929 and the three years of Arab terror between 1936 and 1939 during a settling of accounts between various Arab factions. The problem at the root of the Middle East conflict was, as always, the unwillingness of the Arab States to reconcile themselves to Israel's existence as a sovereign State and to normalize their relations with it.
8. The true face of the Ugandan régime was well-known, for the reports of the International Commission of Jurists and of Amnesty International had documented its brutality. He cited, as evidence, the expulsion of a large number of Ugandan-born persons simply because the colour of their skin was different from that of the majority, the murder of hundreds of students over an argument with the Chief of State's son and the murder of Mrs. Bloch, a passenger on the hijacked Air France plane, and later of the photographer who had photographed the body.
9. Libya was the guiding force behind international terrorism and, as such, it bore responsibility together with the perpetrators for the criminal acts. The active participation of Libya and its President, in supporting and co-operating with Arab and international terrorist movements was common knowledge. Even President Sadat of Egypt had confirmed, in an interview with a Kuwaiti newspaper, Colonel Qadaffi's involvement in both the planning and financing of the Air France hijacking. Libya had been involved in attacks on international civilian aircraft even though it was a signatory to the Hague Convention of 1970 and the Montreal Convention of 1971. The fact that the representative of that criminal régime, which was paymaster and instigator of international terror, had served as President of the Security Council recently was a blatant example of its cynical disregard of the Charter.
10. Mr. HALIMAD (United Arab Emirates), speaking in exercise of the right of reply, noted that although the Israeli representative had accused him of distorting facts he had not attempted to refute the crimes imputed to Israel against the indigenous population of Palestine or against the British during the latter's administration of that land or other actions, including the downing of the Libyan aircraft. /...

(Mr. Hammad, United Arab Emirates)

11. In reply to the accusation that he had indulged in religious incitement, he pointed out that all he had said was that one of the victims had been gunned down and that the bullet wounds had formed a cross. A similar misunderstanding or wilful distortion had occurred in that he had not said that zionism but that Zionist gangs such as the Haganah had introduced terrorism to the Middle East. Since the Israeli representative had not refuted those charges -- indeed he challenged him to try -- he should be the last to speak on the subject of international terrorism.

12. Mr. ROSENSTOCK (United States of America), speaking in exercise of the right of reply, noted that one representative had that day used the crash of a Cuban aircraft on 6 October 1976 to prop up his flimsy propaganda. The United States Government denied any involvement in the tragedy and had expressed regret at the loss of life which had resulted. It had offered its support in bringing the perpetrators to justice.

13. Mr. ALARCON de QUESADA (Cuba) said that considering that the terrorist groups were based in the United States, such a statement was very hypocritical and would deceive no one. The groups had announced two months prior to the tragedy, that they intended to attack aircraft in flight. As evidence of the United States authorities' responsibility, he cited an article in U.S. News and World Report, on the growing threat of the Cuban element in the United States, which stated that those terrorists were the most highly trained assassins in the world. It was difficult to bring them to justice for, according to the head of the anti-terrorist unit in Miami, they had access to all information including supposedly secret information and could keep track of the activities of the officials of the unit. As the article stated, the terrorists were protected by a web of loyalty, for most of them had worked at some time or another for the United States Government, either in the Army, or as CIA operatives or FBI informants. The article went on to say that one of the refugee leaders had suggested that law-enforcement officials had not found the killers because they did not want to. At a congress of one terrorist organization held in Miami, in July, detailed accounts of the organization's activities had been presented. The congress, of which he had a memorandum, had been attended by representatives of some Latin American régimes, United States parliamentarians and Miami officials. It was therefore clear that if the United States wished to act in a manner that was in keeping with its statements in international bodies, it had ample means to do so. Similarly, the international community would have ample opportunity to judge the value it should accord the words of a State that harboured and encouraged terrorists.

14. Mr. ALHUNI (Libyan Arab Republic), speaking in exercise of the right of reply, said that Libya had always given moral and material assistance to peoples still labouring under the yoke of colonialism and racial discrimination and had always opposed plots against the people of Palestine. That position was not inconsistent with the principles of the Charter or any of the resolutions concerning the elimination of colonialism and racial discrimination.

15. The statement by the representative of the Zionist entity was part of its long-standing tendentious propaganda against Libya, aimed at distorting Libya's image as a champion of the noble struggle for freedom. The attempt to link Libya to the hijacking was unfounded for Libya had repeatedly condemned hijacking as

(Mr. Alhuni, Libyan Arab Republic)

irresponsible and its legislation provided exemplary punishment for such criminal actions. The Government had on several occasions allowed hijacked aircraft to land merely in order to save lives. The claims of the Israeli representative were a retaliation for Libya's support for the liberation forces. Naturally, Israel did not like to see Libya in, much less presiding over, the Security Council, for that was an honour that Israel could not aspire to. That honour had been bestowed upon Libya by a large majority of Member States in recognition of its support of the progressive forces in the world and its role as one of the pillars of the struggle to maintain peace and security against imperialism, neo-colonialism and underdevelopment.

16. Mr. OKWONGA (Uganda), speaking in exercise of the right of reply, said that the report of the International Commission of Jurists had been rejected by the Commission on Human Rights on the ground that it was based on hearsay evidence. Further, his Government had appointed a commission of inquiry to investigate the disappearance of persons; its report was available for the representative of Israel to examine. Lastly, the allegation that there had been a heavy loss of life among students was again based on hearsay evidence which the representative of Israel, as a lawyer, should have treated with caution. He himself happened to know, having been present at the time, that there had been no loss of life.

17. Mr. BLUM (Israel) said that, in view of the limited time at the Committee's disposal, he would be glad to meet the representative of the United Arab Emirates for an informal discussion after the meeting.

18. Mr. HAMMAD (United Arab Emirates) said that, if the representative of Israel had any facts, he should not try to conceal them but should place them before the Committee so that it could judge whether or not they were true.

19. The CHAIRMAN said that the Committee had concluded its general debate on the item.

AGENDA ITEM 112: IMPLEMENTATION BY STATES OF THE PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961: REPORT OF THE SECRETARY-GENERAL (A/31/145 and Add.1; A/C.6/31/L.16)

20. Mr. KOLESNIK (Union of Soviet Socialist Republics), introducing draft resolution A/C.6/31/L.16, recalled that the item had first been taken up by the General Assembly at the initiative of the Soviet Union. That initiative had been endorsed in General Assembly resolution 3501 (XXX) which, *inter alia*, invited Member States to submit to the Secretary-General their comments regarding ways and means of ensuring the implementation of the 1961 Vienna Convention on Diplomatic Relations, as well as on the desirability of elaborating provisions concerning the status of the diplomatic courier, and requested the Secretary-General to submit a report on those comments to the General Assembly at its current session. Although only 15 Governments had so far submitted comments, the following initial conclusions could be drawn.

21. In the first place, as more than 30 States had still not acceded to the Convention, Member States should be urged once again to do so with a view to making it truly universal in character.

Mr. Kolesnik, USSR)

22. Secondly, certain States continued to violate the terms of the Convention and that was reflected in the difficulties faced by diplomatic couriers. The Soviet Union had itself experienced such difficulties. For instance, some States invoked internal regulations to justify their examination of the diplomatic bag and one State which was not a party to the Convention had circulated an official note to the effect that the diplomatic bag could be subject to examination if there were "serious" reasons for so doing. At some airports, diplomatic couriers even had to undergo a personal search. Needless to say, all such acts were a gross violation of the letter and spirit of the Vienna Convention and the draft resolution therefore reaffirmed the need for its strict implementation.

23. Thirdly, the comments received indicated that some States would favour a protocol on the status of the diplomatic courier, although others opposed the idea on the ground that existing provisions were adequate and that they were in any event not directly concerned since they had no diplomatic courier service. The International Law Commission should therefore be requested to study the legal aspects of the matter, to submit its conclusions to the General Assembly and possibly, if a sufficient number of States agreed, to draft the text of a protocol. In the view of the sponsors of the draft resolution, such a protocol would not only facilitate the tasks of diplomatic couriers but would also make an important contribution to the further codification and progressive development of international law.

24. The comments received also indicated a need for further provisions on the status of the diplomatic bag not accompanied by the diplomatic courier and the International Law Commission should also examine those proposals. There were two aspects to the question: on the one hand, the need for freedom of communication between the representatives of a given State and, on the other, State security, which could be threatened if diplomatic couriers of another State abused their immunity. Moreover, it should be remembered that each State was both a sending and a receiving State. Consequently, all States should be concerned in providing within a protocol a clear definition of the different aspects of the rights and duties of diplomatic couriers.

25. Fourthly, it was suggested that, every three or four years, the Secretary-General should send a questionnaire to Member States regarding their practical experience in applying the Vienna Convention, on the basis of which he could then submit a report to the General Assembly. That would enhance the Convention as one of the main international legal instruments governing diplomatic relations between States and would serve as a reminder of the significant role played by diplomatic missions in promoting friendly relations between States.

26. If violations of the Convention were to be prevented, it was essential for the United Nations to be informed of any such occurrence and those violations which affected diplomatic missions accredited to the United Nations in New York should be the subject of special attention. Information on the practical experience gained in implementing the Convention would provide a stimulus for other States to do likewise, and would encourage those States which had not yet done so to accede to the Convention. The draft resolution therefore also recommended that an item on the question be included in the provisional agenda of the thirty-third session of the General Assembly.

/...

(Mr. Kolesnik, USSR)

27. Strict compliance with the Vienna Convention was a prerequisite for the maintenance of normal relations between States in accordance with the principles laid down in the Charter, for strengthening international peace and security and for promoting friendly relations between States. It would have a positive influence on the process of détente and would promote an atmosphere of trust in international relations. That was the spirit in which the sponsors had submitted the draft resolution and he trusted that it would be adopted by consensus.
28. Mr. PETRELLA (Argentina) said that efforts should be made to ensure that as many States as possible became parties to conventions dealing with legal matters, such as that dealt with under the current item. Consequently, his delegation agreed with most of the replies contained in document A/31/L45 which favoured broad acceptance of the Vienna Convention and recognized the need to guarantee implementation of its principles. In that regard, consideration should be given to more detailed regulation, as necessary, of the question of the transport of diplomatic bags and all related matters.
29. Without prejudice to any future bilateral arrangements that might be made with regard to questions concerning the scope and implementation of the relevant articles of the Convention, more specific regulation, taking account of the nature of the diplomatic courier and the various interests involved, would permit the standardization of arrangements embodied in customary law or State practice, which would undoubtedly help to prevent disputes.
30. The request to the International Law Commission to study the question of a complementary instrument to the Vienna Convention concerning the status of the diplomatic courier, as contained in draft resolution A/C.6/31/L.16, seemed logical. While his delegation understood the difficulties facing the Commission, there seemed to be no other body which could carry out the preparatory work.
31. Mr. DAMDINDORJ (Mongolia) said his delegation attached great importance to the Vienna Convention on Diplomatic Relations, which it viewed as one of the international instruments designed to strengthen friendly relations and co-operation among States. Effective implementation of that Convention could only be ensured if all States accepted the obligations deriving therefrom, and his delegation therefore appealed to all States Members of the United Nations which had not yet acceded to the Convention to do so as soon as possible. The Mongolian attitude to the Convention was dictated by his Government's sincere desire to maintain and expand normal relations with other States on the basis of equality, mutual respect and independence.
32. Since violations of the Convention continued to occur, his delegation felt it necessary to supplement article 27 thereof by more precise provisions concerning the inviolability of diplomatic couriers, their residence, means of transport, and luggage, bearing in mind the technology currently employed for customs and border inspections. His delegation saw development of the Convention's provisions in those respects as part of the progressive development of international law.

(Mr. Damdindorj, Mongolia)

33. It would be of use if the General Assembly periodically reviewed the implementation by States of the provisions of the Convention. The question of supplementing those provisions should be entrusted to the International Law Commission, which could make a detailed analysis of the comments and suggestions of Governments and submit conclusions thereon.

34. His delegation supported draft resolution A/C.6/31/L.16 and hoped that the Committee would be able to adopt it without difficulty.

35. Mr. BOJILOV (Bulgaria) said that the Vienna Convention on Diplomatic Relations had been the main source of inspiration for the elaboration and adoption of the Convention on Special Missions and the Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. It was gratifying and encouraging that the implementation of the Vienna Convention had helped to maintain and develop friendly relations and co-operation among States and to strengthen trust and mutual understanding among peoples. Unfortunately, there were instances in which the rules of the Vienna Convention were not strictly applied, or were even violated. Consequently, his delegation favoured all endeavours to ensure the strict implementation of the Convention, which would contribute to the application and strengthening of the universally recognized principles of bona fide and pacta sunt servanda. There was much merit in the suggestion made by two Member States in document A/31/145 that the Secretary-General should send questionnaires periodically to Member States concerning their practice with regard to the implementation of the Convention, and prepare analytical reports on the basis of the replies, for submission to the General Assembly. The periodic discussion of such reports in the Sixth Committee would help to disseminate the positive experience of States in implementing the provisions of the Convention, to discourage the violation of its norms and to promote efforts to devise ways and means of ensuring their strict implementation.

36. There was a need for more precise additional rules concerning the functions and status of the diplomatic courier. Since it would be really unwise to tamper with the provisions contained in article 27, paragraphs 1, 5 and 6, and article 40, paragraph 3, of the Vienna Convention relating to that question, it was desirable to elaborate an additional protocol to the Convention.

37. The report of the Secretary-General (A/31/145) contained many suggestions concerning questions which might be explicitly regulated on a generally acceptable basis. Common ground could be found for elaborating rules which would entitle the diplomatic courier to enjoy at least some of the privileges and immunities of a diplomatic agent. It would also be appropriate to draw up clear-cut rules regulating the status, privileges and immunities of the diplomatic courier in cases where diplomatic relations between States were broken off or suspended, where one or both States permanently or temporarily recalled their diplomatic missions, or in the event of armed conflict between two States. The procedure for the diplomatic courier's recall or the termination of his functions should also be discussed.

(Mr. Bojilov, Bulgaria)

38. A number of other suggestions contained in the Secretary-General's report were both warranted and useful. For instance, there was the question of diplomatic bags sent by land, sea or air as unaccompanied luggage. No one would be the loser if that question was regulated by universally accepted rules. In the view of his delegation, no body was more competent to deal with such tasks than the International Law Commission.

39. As a sponsor of draft resolution A/C.6/31/L.16, he expressed the hope that it would be adopted by consensus.

40. Mr. LUTHER (German Democratic Republic) said that the Vienna Convention on Diplomatic Relations was the yardstick for the progressive development and codification of international law in that field. However, it would be useful if some of the developments in diplomatic practice since the conclusion of the Convention were put in concrete form. That was particularly the case with regard to the institution of the diplomatic courier. The legal status of the diplomatic courier as laid down in article 27 of the Vienna Convention did not fully meet the possibilities and requirements of current international practice. As could be seen from the report of the Secretary-General (A/31/145), other States shared that view.

41. It was particularly important to begin with a clear definition of the term "diplomatic courier", since it was in the interest of the proper functioning of a diplomatic mission to communicate with its Government and with other diplomatic missions and official organs of the sending State. Furthermore, the exact definition of the tasks and legal status of the diplomatic courier was a means for implementing the principle of equal and non-discriminatory treatment of all States and ensuring the comprehensive, independent and unhindered exercise of the functions of a diplomatic mission. Consequently, his delegation would support the definition of the diplomatic courier as a person carrying the diplomatic bag of a diplomatic mission communicating with its Government or other missions of the sending State, wherever situated. His delegation, while against the misuse of the functions of the diplomatic courier, was aware of the legitimate security interests of States, particularly in regard to the technical operation of their transport facilities.

42. To ensure the comprehensive and unhindered exercise of the functions of the diplomatic courier, his delegation also favoured the elaboration of more comprehensive provisions concerning his immunities and privileges, in particular his exemption from customs inspection and personal inspection or control. As a result of functional necessity, it would be desirable to bring the privileges of the diplomatic courier into line with those of a diplomat. Improper use of such privileges and immunities could, to the greatest extent possible, be excluded by virtue of the duty of every privileged person to strictly observe the legal provisions of the receiving State, as laid down in the Vienna Convention, and of the right of the receiving State to declare privileged persons persona non grata.

(Mr. Luther, German Democratic Republic)

43. The legal status of the courier should be further defined by applying to the diplomatic bag article 45 (a) of the Vienna Convention, concerning the severing or suspension of diplomatic relations. According to the generally held legal view, the inviolability of the diplomatic bag was the corollary to the inviolability of the official correspondence, archives and documents of a diplomatic mission. The inviolability of the diplomatic bag and the privileges and immunities of the courier would continue to be observed by the receiving or transit State when the events mentioned in article 45 (a) occurred. His delegation would welcome a solution to the question of uniform and simplified procedures for the granting of visas to diplomatic couriers. In view of existing practice, his delegation would support a formula obliging the receiving and transit States to grant a diplomatic or special visa to the courier, without any delay, and regardless of the type of passport he carried.

44. His delegation welcomed the provision of draft resolution A/C.6/31/L.16 stating that the General Assembly should periodically deal with the implementation by States of the provisions of the Vienna Convention. Furthermore, the International Law Commission should study the question of the status of the diplomatic courier and of the unaccompanied diplomatic bag, and submit its findings to the General Assembly.

45. Mr. MAKAREVICH (Ukrainian Soviet Socialist Republic) recalled that his delegation had stated at the thirtieth session of the General Assembly that it would be opportune to supplement the provisions of the Vienna Convention on Diplomatic Relations and that it had upheld that view in its reply (A/31/L45, p. 13) to the questionnaire circulated by the Secretary-General in accordance with General Assembly resolution 3501 (XXX).

46. The Convention embodied universally recognized rules of diplomatic law and was an integral part of the legal basis for the peaceful coexistence of States having different social systems. It had withstood the test of time and, generally speaking, required no amendment. The principal need was therefore to make it more effective, to obtain the accession to it of a broad range of States and to ensure its strict observance. His delegation believed that a wide-ranging discussion within the General Assembly would be of use in that respect. It therefore welcomed the report of the Secretary-General (A/31/L45 and Add.1), which contained official comments by States on both the matter in general and individual aspects thereof.

47. Serious concern at the violations of the Convention to which some States had referred in that report had been expressed at both the preceding and current sessions of the General Assembly. Such violations were all the more regrettable as they were occurring against a background of détente. His delegation believed the Convention would be made more effective and violations would become fewer if all States acceded to it.

48. In view of the importance of the institution of diplomatic couriers, it seemed advisable that their status and functions should be more precisely regulated than they now were in the Convention. That did not mean that the relevant provisions of that instrument should be changed, but that they should be developed in the

/...

(Mr. Makarevich, Ukrainian SSR)

light of the current practice. His delegation supported the proposal that study of that question should be entrusted to the International Law Commission and that the Commission should submit recommendations for the elaboration of a protocol on the matter. It also agreed that the Commission should study the question of the status of the diplomatic bag not accompanied by the diplomatic courier. The elaboration of a protocol to the Convention would be in the interests of all States, since it would help to eliminate the difficulties which diplomatic missions encountered in communicating with their capitals by means of the diplomatic bag, both accompanied and unaccompanied.

49. In that respect, his delegation supported draft resolution A/C.6/31/L.16 and hoped that the Committee would adopt it by consensus.

50. Mr. ROSENSTOCK (United States of America) said that his delegation attached considerable importance to the 1961 Vienna Convention and considered that, since in most material respects it was a codification of existing diplomatic norms, States were bound by its terms whether or not they were parties to it. The widest possible adherence to the Convention was desirable, preferably without reservation.

51. It was, however, a little difficult to see how a new protocol would increase the likelihood of further ratifications and, in his delegation's view, it was more important to set up mechanisms to facilitate the application of the norms involved. A protocol on the settlement of disputes would be an earnest of the views of those who had stressed the importance of the Convention and its norms.

52. His Government had already expressed doubts about any further study on the status of the diplomatic courier. He noted that the draft resolution expressed concern at violations of the status of the diplomatic courier and advised a study of the matter. It was, however, necessary to be sure of the ground for any such statements before they were made. Only a few Member States had submitted comments on the question and their lack of unanimity did not seem to suggest that it would be useful to refer the matter to the International Law Commission and, still less, to study the proposal for a protocol.

53. Although it would be advisable to consider the matter periodically, his delegation doubted whether there would be any point in expending further time and energy upon it.

54. Mr. BIALY (Poland) said that his delegation had spoken on the question under consideration at the preceding session of the General Assembly and had fully supported General Assembly resolution 3501 (XXX). It was regrettable that so few Member States had provided additional comments and observations and had acceded to the Vienna Convention since the adoption of that resolution.

55. His delegation fully shared the opinion that the Vienna Convention had been a milestone in the progressive development and codification of the generally accepted diplomatic law. Its provisions had stood the test of time, and all States should become parties to it, thereby helping to strengthen international relations and providing them with a solid legal basis. To facilitate that process,

/...

(Mr. Bialy, Poland)

it might be useful to have an analytical study, compiled by the Secretariat, summing up the advantages of accession to the Convention.

56. The overwhelming majority of States parties to the Convention implemented and observed its rules and provisions. All violations of the Convention could only be condemned; at the same time, proper measures should be found to create a climate conducive to the full implementation of its rules and provisions. Consequently, his delegation fully supported the suggestion of the Soviet Union that the Secretary-General should send periodical questionnaires to Member States concerning their implementation of the Vienna Convention and should prepare, on the basis of their replies, analytical reports to be submitted to the General Assembly. In addition, it would be worth while considering the advisability of requesting States parties to the Convention to send information periodically on their internal law implementing its rules and provisions.

57. The Vienna Convention was the product of a compromise and some of its provisions were formulated in general terms only. Consequently, there still existed possibilities for development. One of the problems ripe for consideration was a more detailed elaboration of provisions regarding the status of the diplomatic courier, or a person to whom the diplomatic bag had been entrusted, as well as the unaccompanied shipment of the diplomatic bag, which was becoming a more frequent practice, especially on the part of smaller States. With regard to the two latter practices, the provisions of the Vienna Convention were far too general. Article 27, paragraph 7, of that Convention, dealing with cases in which the diplomatic bag was entrusted to the captain of a commercial aircraft who was not considered as a diplomatic courier, should be elaborated in greater detail. In that connexion, he recalled that, as long ago as 1958, the view had been expressed that it might be advisable to consider extending the personal inviolability of the diplomatic courier to the captain or member of the crew of a commercial aircraft carrying the diplomatic bag; that immunity would exist only for the duration of the journey and until the bag was delivered. As far as the diplomatic bag being sent unattended was concerned, the Vienna Convention contained only two provisions, namely paragraphs 3 and 4 of article 27. Paragraph 3, setting forth the principle of inviolability of the diplomatic bag, required some amendments, since modern techniques made it unnecessary to open the diplomatic bag in order to ascertain its contents. The relevant provision of the Polish-Austrian Consular Convention of 1974 stipulated that the consular bag was not subject to being opened, to control or detention.

58. In view of those considerations, proper steps should be taken to secure full implementation of the Vienna Convention and studies should be undertaken in order to develop its rules and provisions. Such steps would contribute to the further development of friendly relations and co-operation among States.

59. He expressed the hope that draft resolution A/C.6/31/L.16 would be adopted by consensus.

60. Mr. ALVAREZ TABIO (Cuba), speaking as a sponsor of draft resolution A/C.6/31/L.16, said his delegation agreed that the implementation of international legal provisions governing relations between States was an important part of the

/...

(Mr. Alvarez Tabio, Cuba)

effort to strengthen international peace and security. It condemned any violation of the central purpose of the Vienna Convention and considered that differences as to its interpretation or application should be settled by negotiation, rather than unilaterally. It also considered that further provisions regarding diplomatic couriers were needed and that it was the duty of States to furnish couriers with every assistance. An additional instrument to consolidate the provisions of the Vienna Convention would therefore provide the diplomatic courier with the most favourable conditions for carrying out an essential and often difficult task, while making a positive contribution to the codification and progressive development of international law.

61. Mr. JACHEK (Czechoslovakia) said that his delegation, which was a sponsor of draft resolution A/C.6/31/L.16, considered that the consistent implementation by all States of the Vienna Convention on Diplomatic Relations would have a positive influence on the development of peaceful co-operation in all aspects of life. He observed that the Convention had not yet acquired universal force and that examples of violations of its provisions had been quoted in each of the two years in which the Committee had been considering the item under discussion.

62. His delegation believed that there was a need to incorporate in the Convention, on the basis of the principles set out in article 27 thereof, more precise rules concerning the status of diplomatic couriers. That would help to a significant degree to eliminate or reduce the uncertainty and incidents which had been experienced in that respect. There might also be more precise regulation of the forwarding of the unaccompanied diplomatic bag and the consular bag of special missions and delegations, bearing in mind in that respect the provisions of the relevant multilateral conventions of 1963, 1969 and 1975.

63. Accordingly, his delegation believed that the Committee should make active efforts to ensure universal support for the Vienna Convention and its consistent implementation by all States Members of the United Nations. It also believed the Committee should make the request to the International Law Commission contained in operative paragraph 4 of draft resolution A/C.6/31/L.16, which it hoped all the members of the Committee would support.

64. Mr. QUENTIN-BAXTER (New Zealand) said that although his delegation agreed there was a need for more States to ratify the Vienna Convention, it could not support draft resolution A/C.6/31/L.16, at least in its existing form, although it contained many positive elements.

65. Since his Government had not submitted comments regarding the status of the diplomatic courier, his delegation would reserve its position on matters of substance. It considered, however, that the question was sufficiently important to justify a renewed appeal to Governments for a wider measure of response to the questions involved, and also that any work on the proposal should be directed at supplementing the existing Convention and not at revising it in any manner.

66. He noted that there had been a considerable increase in the volume of work handled by the Committee and its subordinate bodies, and that a number of conferences had been proposed for 1977. He therefore wondered whether in future,

/...

(Mr. Quentin-Baxter, New Zealand)

towards the end of its sessions, the Committee should not ask for a statement of the implications of its proposals, in terms of the demands that would be made on the services of a limited Secretariat. He appreciated that matters of finance and administration were the province of the Fifth Committee but, in his view, the Sixth Committee was required to give an equal measure of attention to the deployment of the services of the Office of Legal Affairs.

67. The proposal before the Committee concerned not only the 1961 Vienna Convention but also the Conventions on Consular Relations and on Relations with International Organizations. It could be said that it was the right time to refer the matter to the International Law Commission, which was at the beginning of a new quinquennium, when it normally reviewed its progress and future programme of work and could therefore most easily assimilate such a reference. However, the ground had not been sufficiently well traversed to justify such a reference to a body of experts serving in an individual capacity. The comments received from Governments had been almost equally divided as to whether or not it was a good idea to pursue the matter. Moreover, as the General Assembly was nearing the end of its session, the debate was being conducted under somewhat artificial rules. For instance, the list of speakers had been closed before the debate had begun and before draft resolution A/C.6/31/L.16 had been submitted. The views of most delegations would be known only if they voted or if they explained their vote. It was hardly a situation that would compensate for the very limited response from Governments and make for a broad appreciation of the views of all regional groups.

68. Further, the draft resolution provided that the matter would be referred back to the Committee in 1977 and it seemed implicit in its terms that the International Law Commission was being asked at most for a preliminary reaction. That might be a sensible course to follow although, in practice, the Commission operated in one of two ways. The most usual way, which was adopted for major topics involving a long time-span, was to appoint a Special Rapporteur to study the subject in detail and report back to the Commission. The other way, which was adopted only exceptionally, involved a reference to the Commission over a briefer time-span, in which case there had to be a clear understanding throughout the General Assembly as to the object to be pursued and the materials had to be clearly defined so that the work could be finished quickly and efficiently. His delegation would therefore have been happier if the sponsors of the draft resolution had confined themselves to seeking a better response from Governments. That would provide the basis for a debate in the Committee on matters of substance when it would be time enough to refer the matter to the International Law Commission.

69. The CHAIRMAN announced that Algeria and Czechoslovakia had become sponsors of draft resolution A/C.6/31/L.16.

AGENDA ITEM 109: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY
(A/31/26; A/C.6/31/6) (continued)

70. Mr. SOBER (United States of America) said that the United States was honoured

(Mr. Sober, United States)

to act as the host country to the United Nations, and did everything possible to discharge its responsibilities as such and to facilitate the functioning of the United Nations and the permanent missions. Together with the citizens and authorities of New York City and New York State, the United States Mission sought to make the working conditions of the international community as efficient and pleasant as possible. He recognized, however, that, despite those efforts, some missions and their personnel faced difficulties from time to time. The fact that such incidents represented isolated exceptions to the general rule in no way diminished their importance. Certain residents of the United States believed that they could deal with human rights questions through contemptible acts of violence. Such acts were not limited to the United States and only bred further violence, thus defeating the goal of enhancing respect for human rights. The United States condemned such acts and did everything possible to seek out, prosecute and punish those responsible. However, under the social and legal system of the United States, that was not always possible, since the persons or organizations in a position to present the evidence needed to convict the culprits were sometimes unwilling to testify, as was undoubtedly their right. The United States authorities would continue to do everything possible in that regard. Recently, the federal law-enforcement authorities had apprehended and prosecuted several persons charged with serious acts of violence against two Permanent Missions to the United Nations. Those persons had recently pleaded guilty to offences which constituted serious crimes under federal law. He was confident that that success would help to improve the over-all security conditions in New York and to reassure those missions which had unfortunately been the object of violence.

71. Although the overwhelming majority of the United Nations community in New York comported themselves in an appropriate manner, there were occasional exceptions to that rule. Those who, for example, failed to discharge their debts discredited the image of the diplomatic community as a whole. He expressed the hope that the Committee on Relations with the Host Country would continue to co-operate with the United States Mission in order to prevent the recurrence of such acts.

72. The United States Mission would continue to be receptive to suggestions and complaints from permanent missions and would do everything possible to alleviate the difficulties faced by missions and their personnel.

73. The report of the Committee on Relations with the Host Country (A/31/26) deserved the very close attention of the Committee, although its contents, and in particular its recommendations, did not conform in all respects to the wishes of his delegation. Nevertheless, those recommendations had been the result of lengthy negotiations and represented a healthy compromise between the points of view of the various delegations.

74. Mr. ZENKYAVICHUS (Union of Soviet Socialist Republics) said that the security of missions and safety of their personnel was undoubtedly the most important question dealt with in the report of the Committee on Relations with the Host Country (A/31/26). Although that Committee had not discussed all such unlawful acts, sufficient of them were mentioned in its report to arouse great concern and to justify fully the assertion that the conditions of life and work in New York City

/...

(Mr. Zenkyavichus, USSR)

for members of certain missions had been made altogether intolerable. Despite numerous resolutions by the General Assembly, recommendations from the Committee, and assurances from the host country authorities, the situation in that respect had in fact grown worse in the past year.

75. On 27 February 1976, shots had been fired, for the third time, at the residence belonging to the USSR Mission in Riverdale. That terrorist act had been preceded by a campaign of hostility and violence. On 12 February, Zionist elements had attacked officials of the USSR Mission and the United Nations Secretariat; on 16 February, a crowd of Zionist elements had carried out further provocative acts in front of the Missions of the USSR, the Ukrainian SSR and the Byelorussian SSR; and on 18 February, a group of Zionist hooligans had broken into and committed outrages in the TASS office. The United States authorities had promised to prevent any recurrence of the shooting incident, but the sincerity of their assurances could be judged from subsequent events. On 29 February, a large group of Zionists, carrying placards threatening physical harm to Soviet citizens, had gathered near the USSR Mission. On 8 March, they had exchanged words for deeds, by bombing the Aeroflot office in New York City. Responsibility for that bombing and the shooting he had mentioned had been publicly claimed by the "Jewish Armed Resistance". It would seem that, since the criminals were known, they should be arrested and tried, but the United States police and the Federal Bureau of Investigation were apparently unable to do anything. On 14 March, there had been further demonstrations at the premises of the USSR Mission, at its residence in Riverdale and at the Intourist office, with further threats of violence against Soviet diplomats. Similar anti-Soviet activity had occurred on 18 March, near the hospital in Glen Cove where the USSR Permanent Representative and his wife had then been patients. Hostile acts had systematically been committed by Zionist youths against Soviet diplomats on six other occasions in March 1976. On 31 March, the USSR Mission had sent a note verbale to the United States Mission, demanding that such acts be prevented and that the conditions necessary for the normal functioning of the USSR Mission be ensured. The note had stated that the fact that the United States citizens who had participated in the acts complained of remained unpunished gave the criminals the chance to engage in further terrorism. The response had been the firing of further shots at the premises of the USSR Mission on 2 April, an incident for which the Jewish Armed Resistance had again claimed responsibility. The occurrence of such acts according to what had become a traditional pattern suggested co-operation between the criminal elements concerned and those who, under the United States Constitution, were supposed to fight crime.

76. The selection of incidents he had cited showed the pattern of a systematic, deliberate and pre-planned campaign to hamper the normal work of diplomats and make conditions intolerable for them. It was impossible to overlook the role played in that respect by the mass media, which had in essence encouraged the Zionist and other emigrant organizations to commit their outrages. It was typical of the United States media not to seek to create a climate favourable to the work of the United Nations and the accomplishment by missions of their noble task of strengthening international peace and security.

(Mr. Zenkyavichus, USSR)

77. Hostile acts had been directed not only against the USSR Mission but also, as the report under discussion showed, against those of Cuba, Czechoslovakia, India, Iraq, the Lao People's Democratic Republic and Mongolia. Regrettably, such incidents were not a thing of the past, for the campaign of Zionist elements against the USSR continued, as did the demonstrations at its Mission and at its residence in Riverdale. The representative of Tunisia and the Observer for the Palestine Liberation Organization would be reporting on further terrorist acts against their Missions and staff. There could be no assurance that such incidents would not continue in the future so long as the criminals remained unpunished and the United States authorities, which had incurred specific obligations in accepting the presence of United Nations Headquarters in New York City, had not taken decisive and effective measures to prevent them. It was obvious in that respect that nowhere and at no time could or should liberty of person be equated with freedom to commit crimes.

78. It was also false to claim that the criminals went unpunished because diplomatic representatives were unwilling to testify against them. The extent to which diplomatic representatives were subject to the laws and regulations of the receiving State was limited as laid down in article 41, paragraph 1, of the 1961 Vienna Convention on Diplomatic Relations. Furthermore, article 31 of that Convention stated that a diplomatic agent enjoyed immunity from the criminal jurisdiction of the receiving State unless, as was made clear in article 32 of the same instrument, that immunity was expressly waived. And finally, article 31, paragraph 2, of the Convention stated that a diplomatic agent was not obliged to give evidence as a witness. All those provisions had been accepted rules of diplomatic law long before the adoption of the Convention itself. The immunity enjoyed by diplomatic representatives must not and could not be an obstacle to the prosecution by the host country authorities of those responsible for terrorist acts, particularly as there were no insurmountable barriers to such prosecution in the United States Criminal Code. He drew attention in that respect to pages 285, 390 and 391 of the United States Government memorandum on the rights and privileges of the representatives of foreign States to the United States of America (ST/LEG/SER.B/7). Offences against diplomatic missions represented an infringement not only of their rights as entities but also of the public law of the host country. Consequently, it was reasonable to expect that the host country authorities would themselves institute the necessary judicial proceedings, without requiring the bringing of charges by the victims. Indeed, United States law laid responsibility for ensuring the safety of missions to the United Nations and their personnel upon the host country authorities.

79. The report of the Committee on Relations with the Host Country contained useful recommendations and much factual material. His delegation wished to draw particular attention to the fifth of the Committee's recommendations. It felt that the Sixth Committee could approve the report and prolong the activities of the Committee on Relations with the Host Country for a further year.

(Mr. Zenkyavichus, USSR)

80. In view of the acts of terrorism and violence which had occurred during the past year, there was an urgent need for the Sixth Committee to adopt a resolution decisively condemning terrorism and hooliganism by Zionist and other criminal elements against missions of States Members of the United Nations and their personnel. That resolution must state that the host country authorities had still not ensured the safety of missions and their personnel and were failing to discharge the United States obligations under international law.

The meeting rose at 6.25 p.m.