AD HOC COMMITTEE ON INTERNATIONAL TERRORISM
16 July-10 August 1973

OBSERVATIONS OF STATES SUBMITTED IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTION 3034 (XXVII)

Addendum

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The Australian Government deplores acts of international terrorism and is determined to do all in its power to achieve international acceptance of an effective code of rules and other measures aimed at the elimination of international terrorism in all its forms.

To this end Australia has actively participated in the preparation of the Tokyo and the Hague conventions relating to hijacking and crimes of violence on aircraft and these conventions have subsequently been ratified by the Australian Government. Australia also participated in the preparation of the Montreal Convention relating to sabotage of aircraft and has already signed and intends to ratify this convention. Australia believes that the development and extension of international law more generally into the field of international terrorism has now become urgent.

Australia recognizes that an impartial study of the underlying causes of terrorism is desirable and that it will constitute a substantial part of the Ad Hoc Committee's deliberations. The Australian Government, however, views as imperative the formulation of concrete proposals to protect innocent third parties and uninvolved third party States. It is essential that the rights of innocent victims or potential victims of international terrorists should not be left unprotected until the causes of terrorism are fully identified and remedied. These two related tasks should be undertaken simultaneously by the Committee. Recent events underscore the urgency of this problem and the importance to the international community of specific measures to counter its immediate manifestations as well as careful examination to identify its causes.

Australia believes that it is clearly within the terms of resolution 3034 (XXVII), adopted by the General Assembly on 18 December 1972, that the Ad Hoc Committee is empowered to prepare draft articles for submission to the next session of the General Assembly. Australia's view is that it is essential that such a draft convention be prepared in conjunction with the Committee's study of the underlying causes of international terrorism.

The type of convention envisaged by Australia would contain three fundamental elements:

1. A definition of terrorism similar to that embodied in document A/C.6/L.850;

2. Provisions specifying that, for the purposes of extradition, acts of international terrorism as so defined would in no circumstances be regarded as 'political crimes';

3. Provisions ensuring that acts of international terrorism shall be punishable by the State in which the offence is committed and also by the State in which the offender is present.
The Government of Canada considers that effective measures should be taken, as a matter of highest priority, to deter and prevent all wantonly brutal acts of terrorism which, through their victimization of innocent persons, seriously threaten the maintenance of peaceful, friendly and orderly relations among States. The Canadian Government is of course aware that violent acts of international terrorism often stem from underlying causes of misery, frustration, grievance and despair, and that without a renewed international commitment to eliminate these causes, such terrorist acts may never be eradicated entirely and may even continue to escalate in new and bizarre forms.

2. The Canadian Government is convinced that the international community can do much more than it has done, primarily through the United Nations system, in attacking the underlying political, economic and social causes of international terrorism. However, consideration and approval of effective measures to combat acts of international terrorism cannot await the elimination of these causes, just as on the domestic plane, while governments, criminologists and social scientists are studying the root causes of violent crime with a view to its control and elimination, governments have not been able to wait until the causes have been studied and removed before enacting national penal laws. In paragraph 66 of the Secretariat’s incisive study A/C.6/418 and Corr.1 and 2 and Add.1 of 2 November 1972, it is pointed out that:

"... Terrorism threatens, endangers or destroys the lives and fundamental freedoms of the innocent, and it would not be just to leave them to wait for protection until the causes have been remedied and the purposes and principles of the Charter have been given full effect. There is a present need for measures of international co-operation to protect their rights as far as possible."

3. In considering what new measures might usefully be adopted to combat acts of international terrorism, it is necessary to appreciate action that has already been, or is being, taken on related issues in various international fora. Although individual countries or groups of countries may be dissatisfied with the degree or speed of progress being made in some of these fields, it is clear that States must continue to work together to reach general agreement in each of the specific areas where an effective international consensus has not yet emerged. The Secretariat’s study contains a useful analysis of such action, namely:

(i) Declaration on Principles concerning Friendly Relations: The Declaration on the United Nations Charter principles on man-use of force and non-intervention in the domestic affairs of States, approved by the General Assembly in resolution 2625 (XXV) of 24 October 1970, states that no State shall participate or assist in terrorist activities directed toward the violent overthrow of the régime of another State.

/...
(ii) Definition of aggression: In all three draft definitions under active consideration by the United Nations Special Committee on the Question of Defining Aggression, terrorist acts are given some form of recognition as constituting direct or indirect aggression.

(iii) Unlawful interference with civil aviation: Acts of hijacking and sabotage of civil aircraft are covered by the Tokyo, Hague and Montreal Conventions which were elaborated under the auspices of ICAO. It is hoped that States which have not yet done so will take steps as a matter of urgency to become parties to these Conventions. In addition, ICAO is convening an Extraordinary Assembly and Diplomatic Conference in Rome from 28 August to 21 September 1973, to consider proposals for new international machinery for the rapid and impartial investigation of the facts, determination of fault and consideration of remedial measures in those instances where States endanger air safety by assisting or otherwise encouraging the perpetrators of acts of unlawful interference. Within ICAO, international standards for airport security measures are also being re-examined with a view to strengthening them.

(iv) Protection of diplomats: At its twenty-eighth session, the General Assembly of the United Nations will consider and, it is hoped, approve a new international convention based upon the draft articles prepared last year by the International Law Commission on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons.

(v) Human rights in armed conflicts: Although not mentioned in the Secretariat's study, the International Committee of the Red Cross (ICRC) convened conferences of governmental experts in 1971 and 1972 to consider two protocols to be placed before a diplomatic conference on the Geneva Conventions of 12 August 1949 for the Protection of War Victims. 1/ It is expected that the general protection of the civilian population against dangers resulting from armed conflicts, contained in the Fourth Convention relative to the Protection of Civilian Persons in Time of War, including the prohibition of acts of terrorism against the civilian population, will be reaffirmed and progressively developed.

The Canadian Government is of the opinion that in addition to action already taken in various international fora several new measures are needed to combat other acts of international terrorism:

(a) Each State should take national measures to prevent their nationals from assisting in any way in the perpetration of acts of international terrorism. States should, where necessary, strengthen their own preventive security measures. They should also, if they have not already done so, become parties to the existing international conventions, and should co-operate fully with other States in the development of additional effective international agreements to cover other interrelated manifestations of international terrorism.

(b) Governments should co-operate in the exchange of information on terrorists and in the co-ordination of action to counter and suppress acts of international terrorism.

(c) A new multilateral convention which would prohibit international terrorism should be approved as a matter of the highest priority in order to provide a potent general deterrent against international terrorist acts.

5. The following are some preliminary views of the Canadian Government on the main features which should be included in a new international convention on acts of international terrorism:

(1) **International element**: A fundamental consideration is the nature and extent of the international element necessary for an act of terrorism to come within the purview of any new convention. Notwithstanding the fact that violence should never be inflicted upon innocent individuals and despite the desirability of covering any acts of trans-border terrorism endangering innocent people, it would seem that to gain the general support necessary to ensure its effectiveness, any new convention should cover primarily those acts of international terrorism in which terrorist violence is intentionally and deliberately extended to countries, or to the innocent citizens of those countries, not directly involved in the dispute giving rise to the violence.

Unlike the League of Nations Convention of 16 November 1937, the draft convention submitted by the United States at the twenty-seventh session of the General Assembly (A/C.6/L.850) appears designed to cover primarily those acts which affect persons who are not nationals of countries against which the acts are directed. It seems, however, unduly restrictive since under Article 1(a) any act, to be covered, must be committed outside of the territory of which the alleged offender is a national. The Government of Canada considers that there would be an international element sufficient to bring an act within a new convention if a national were to commit an act of terrorism within his own territory which is directed against a person, the offender knows or has reason to know, is not a national of the territory. Thus any definition of international terrorism might include acts committed against an innocent person who, the alleged offender knows or has reason to know, is not a national of the State where the act is committed, or is not a national of the State against which the act is directed.

(2) **Option to Extradite or Submit for Prosecution**: A new convention should be patterned on Article 9.1 of the League of Nations Convention, Article 3 of the United States draft convention and Article 7 of the Hague and Montreal Conventions, in obliging States Party to either extradite the alleged offender or submit him to their competent authorities for the purpose of his prosecution. Article 5 of the OAS Convention of 2 February 1971 also contains the option to either extradite or prosecute, but Article 6 provides that "None of the provisions of this Convention shall be interpreted so as to impair the right of asylum." Acts of international terrorism, however, are so disruptive and damaging to international order that although the right to grant asylum should permit a State to refuse extradition, it should not be invoked to allow a State to refuse to submit the case to its competent authorities for the purpose of prosecution.
Universal jurisdiction: A new convention should follow article 4.2 of the Hague Convention, article 5.2 of the Montreal Convention and article 4.2 of the United States draft convention, in obliging a State Party to establish jurisdiction if the alleged offender is present in its territory, even if the offence took place outside the territory of the State Party.

Disputes procedure: As provided in article 16 of the United States draft convention and in the Convention on International Liability for Damage Caused by Space Objects, a Claims Commission procedure should be provided for, as an equitable and relatively speedy method for settling disputes. It would be preferable, however, if instead of the decisions of the Claims Commission being merely recommendatory, the new convention were to provide for the acceptance by States Party of the Commission's decisions as binding. If this is not generally acceptable, the convention should contain procedures for States Party to make voluntary declarations accepting the decisions of the Claims Commission as binding vis-à-vis States Party making reciprocal declarations at the time or in advance of any dispute.
The general debate on international terrorism at the twenty-seventh session of the General Assembly focused on two main aspects of the issue, one being the measures to combat terrorism and the other to find just and peaceful solutions to the underlying causes, which give rise to acts of violence. This was clearly reflected in General Assembly resolution 3034 (XXVII).

During the general debate the Finnish delegation pointed out that these two questions should be tackled simultaneously and with all possible urgency. They are not mutually exclusive in character nor are they questions between which an order of priority must be established.

It is of equal importance, however, to note, as was done by the Finnish delegation, that even if one is aware of the necessity to consider the underlying causes and to intensify efforts towards finding just and durable solutions to the problems in question, it would be unrealistic to suppose that solutions to such a large variety of problems can be immediately agreed upon. Consequently, it would not be just to leave the fundamental freedoms of the innocent to expect protection until the causes of terrorism have been removed and the purposes and principles of the Charter have been given full effect.

This same consideration was emphasized in the communiqué issued after the meeting of the Nordic Foreign Ministers in Oslo, on 29 and 30 March 1973. The Foreign Ministers underlined the importance of international co-operation between all States Members of the United Nations to intensify United Nations efforts regarding the question of international terrorism. They stressed that the efforts to define the underlying causes of international terrorism must not delay the United Nations in its task of elaborating upon effective measures to combat international terrorism.

In the view of the Finnish Government, the world community has before it as a result of the general debate on international terrorism at the twenty-seventh session of the General Assembly a variety of concrete proposals for finding an effective solution to this serious problem.

As to the measures for combatting the acts of violence which endanger or take innocent human lives or jeopardize fundamental freedoms, the Government of Finland considers that an appropriate legal framework should be negotiated under the auspices of the United Nations. Here one can proceed along two lines that complement each other. While the ultimate goal must lie in the creation of a general treaty on international terrorism, the United Nations should at the same time undertake partial measures against terrorist acts in making them objects of special treaties.

In the field of special treaties a meaningful co-operation between States had, in the view of the Finnish Government, been pursued by ICAO. The same method should
be applied to other forms of acts of violence, taking into consideration however, that in order to avoid the duplication of work, the Ad Hoc Committee mentioned in resolution 3034 (XXVII) should concentrate on those aspects of terrorism which are not dealt with by other organs of the United Nations or by other international organizations.

It would also be of importance that the possible international agreements in this field should be accompanied by corresponding efforts on a national level. It is evident that only limited progress can be made on any of these questions unless the efforts on international level are supported by a similar commitment on a national level.

During the twenty-seventh session of the General Assembly little was said about possible ways and means in order to tackle the problem of finding just and peaceful solutions to the underlying causes which give rise to acts of violence. There are different kinds of conflicts which generate violence having international implications. A common trait of these conflicts is that they can endanger international peace and security and thus fall within the competence of the Security Council. A new impetus should be given so that the Organization could find just and peaceful solutions to the problems which the Security Council has had so many times before it and which are still awaiting their solution.

The Government of Finland sincerely hopes that the Ad Hoc Committee would work out a report which could form a basis for the General Assembly to reach effective and widely acceptable solutions to the problem of international terrorism at its twenty-eighth session. In this spirit the Finnish Government is prepared to give its further support to the endeavours of the United Nations concerning international terrorism.
1. In view of the increasing number of acts of terrorism and reprisal which have plunged the world community into mourning by causing the loss of many innocent lives, the French Government associated itself with all those who felt that the United Nations could not remain indifferent to the question of international terrorism. In that connexion, Mr. Maurice Schumann stated before the General Assembly of the United Nations that "France shared the anguish of the Secretary-General and immediately endorsed his initiative, which it felt set an example in two respects: first, because it aimed at breaking the merciless chain of indiscriminate violence, and second, because the man who had taken that initiative intended to grapple not only with the most tragic consequences, but also with the most deep-seated causes".

2. As the Secretariat observes in document A/C.6/418 and Corr. 1 and 2 and Add.1, acts which spread terror among the population may be committed for ordinary criminal motives, such as the extortion of sums of money. However, it is not this type of attack on the established order which justifies the Secretary-General's initiative, for it does not differ greatly from ordinary offences, which are controlled by internal legislation and traditional international mutual assistance in criminal matters. The real problem facing the modern world is that of international terrorism whose origin and aims are political. Consequently, as President Pompidou has pointed out, terrorism cannot be eliminated without eradicating its causes. That is the reason why the French authorities have proposed that an effort be made to grapple not only with the tragic consequences of terrorism, but also with its most deep-seated causes.

That is also the reason why the United Nations must take into account all the admittedly complex facts relating to international terrorism. The United Nations would be abdicating its responsibilities if it merely considered the question in a partial or fragmentary way. In fact, the kidnapping of diplomats or businessmen, the explosion of bombs and the sending of letter-bombs are merely different manifestations of the same socio-political phenomenon.

3. Of course, as the French Government has already had occasion to stress, effective action in the field of terrorism necessitates very wide agreement among the States represented. Solutions which do not command the almost unanimous support of States will merely heighten the tension existing in the modern world and in the final analysis may prove to be harmful. The solutions must be consistent with efforts to strengthen the international protection of human rights and fundamental freedoms. The French Government will spare no effort in its search for procedural and substantive solutions that meet this basic requirement of acceptability.

4. The Ad Hoc Committee set up under resolution 3034 (XXVII) must from the outset undertake a study in depth of the definition of international terrorism. The
French delegation is, of course, ready to make its contribution to this work. It would no doubt be pointless to seek the causes of acts or remedies for those acts without defining precisely the notions involved. The French Government wishes to stress, in this connexion, the value which it attaches to the notion of "acts of abhorrent barbarism" which are condemned by all peoples, irrespective of the nobility of the cause for which they may have been committed.

5. Lastly, the French Government, as it has already stated, feels that States should be invited to re-examine their respective national laws and their bilateral and multinational agreements relating to terrorism. On 17 July 1970, France adopted an Act on the prevention and punishment of aerial hijacking which defines such hijacking as a serious offence (crime) and makes it punishable by penalties ranging from five years' imprisonment to the death sentence. It has ratified the Conventions of Tokyo and The Hague. Furthermore, on 5 July 1972 it adopted a new Act extending the competence of the French courts and increasing the criminal penalties for air terrorism.
1. In reply to the communication of the Secretary-General requesting observations and concrete proposals with a view to finding effective solutions to the problems relating to international terrorism, the Holy See wishes to recall that its numerous pronouncements have adequately expressed its view on the matter. The Holy See deems it useful to enclose excerpts from some of its pronouncements, which are disseminated throughout the world.

2. These observations are submitted in conformity with the specific nature of the Holy See, which cannot be identified with any other State either by reason of purpose or by reason of the means employed. The Holy See has its own territory only for the purpose of safeguarding the free and unimpeded exercise of its mission, which is essentially religious in nature and possesses a universal dimension.

   The Holy See wishes to pledge its loyal collaboration, in accordance with its specific non-political nature. Relying only on its moral authority, it puts itself at the service of each and every universal human value involved in the problem under consideration.

3. Violence is an aberration, and the Holy See is, by the very nature of the role of the Catholic Church in the world, against violence. All violence is to be abhorred. All forms of man's use of violence against other men are against man's innate dignity and against the unity of men who are all brothers. Man is created for solidarity not hate, and for collaboration and fellowship with other men, not for violent opposition to them.

4. In his address to the special session of the Uganda Parliament on 1 August 1969, Pope Paul VI said: "No longer should violence be the means of resolving disagreements among men, but reason and love. No longer man against man, but man for man, and with man in brotherhood. ... We believe that, today, conflicts between peoples can be resolved by a better and more efficacious way than the way of violence. Human relationships must not be regulated by the confrontation of forces unleashed for slaughter and destruction, but by reasonable negotiations, upheld by the international institutions, to which we must give authority, efficiency, and confidence." (L'Osservatore Romano, 2 August 1969, p. 1.)

5. In his Message for the Fourth World Day of Peace, 1 January 1971, Pope Paul VI denounced terrorism as one of the many evils that afflict society today: "The spirits of yesterday rise up again. The supremacy of economic interests, with the all too easy exploitation of the weak, once more returns; so does the habit of hatred and class warfare, and thus is born again endemic international and civil strife. The struggle for national prestige and political power is back; the inflexible conflict of opposing ambitions, and of the rooted and uncompromising prejudices of race and ideology has returned; recourse is had to torture and terrorism; recourse is had to crime and violence, as an ideal purifying fire, heedless of the conflagration that may ensue." (L'Osservatore Romano, English edition, 24 December 1969, p. 1.)
6. The Holy See holds that international terrorism must be condemned because it entails violence against the innocent, takes or endangers innocent lives, and jeopardizes in other ways basic human rights and human freedom. International terrorism subordinates the human person, whose freedom, dignity and rights must be held sacred, to unrelated interests. No matter how just the cause, the end never justifies the means.

7. This was stated very clearly by Pope Paul VI in his address of 11 January 1973, delivered to the Diplomatic Corps accredited to the Holy See: "The whole world is beginning to be moved by the recrudescence of violence; we are speaking of international terrorism. It is a grave and urgent problem, which it devolves on all the partners to solve together, with an honest approach, without omitting to draw attention, too, to the causes of this phenomenon, its methods and its motives. But who would dare to sustain that the end justifies the means, that terror can be an arm for legitimate causes, that violent action against innocent people is justified in a cause that is considered good? We hope it will be possible to find adequate means to gain a hearing and prepare efficacious remedies, in a broad united action." (L'Osservatore Romano, English edition, 25 January 1973, p. 4.)

8. On 13 September 1970, referring to the hijacking of airliners, the Pope said: "Even though we may be able to perceive some glimmer of a desperate need for understanding and justice behind such reactions as these, such acts of terrorism cannot but be openly deplored. They are excesses, no matter by whom they have been committed, excesses which involve innocent people such as women and children, who are in no way involved in the conflict, excesses which threaten the inviolable safety of international transport. Such acts as these increase the spread of destruction and hatred and may even bring harm to those who instigate them. They impede the course of peace and indicate terrible disasters which may follow. As with all those other facts which the civil world condemns today - the kidnapping of innocent people, the torture of political prisoners, the secret traffic and use of drugs - these terrible acts of piracy, of unjust retaliation, of inadmissible intimidation should never be repeated." (L'Osservatore Romano, English edition, 17 September 1970, p. 1.)

9. In the General Audience of 21 October 1970, Pope Paul VI stated: "Indeed, we find another category of misdeeds which the Christian sense of social life cannot admit as licit. We are speaking of violence and terrorism, employed as normal means for overthrowing the established order, when that order is not itself invested with the open, violent and unjust pattern of an unbearable oppression incapable of being reformed by other means. This mentality and these methods are also to be deplored. They cause unjust harm and provoke sentiments and practices that are destructive of community life, and they lead logically to the lessening or loss of liberty and social love." (L'Osservatore Romano, English edition, 29 October 1970, p. 1.)

10. "Terrorism is a grave and urgent problem, which it devolves on all partners to solve together, with an honest approach, without omitting to draw attention, too, to the causes of this phenomenon, its methods and its motives" (Pope Paul VI to the Diplomatic Corps, 11 January 1973; cf. supra para. 8). The underlying causes of terrorism are almost always the misery, frustration, grievance and desperation that
result from intolerable social, political and economic conditions. Often the misery against which terrorism is a protest is the result of policies to oppress a certain group by depriving its members of fundamental rights. Misery gives rise to grievance; uncorrected misery and unlistened to grievances cause frustration; frustration can grow into a desperation that leads to terrorism - anarchical or organized - which has little effect, but which hopes to mobilize the mass media in order to draw the attention of the entire world to situations of injustice or oppression hitherto often forgotten by the comity of States.

A fundamental measure that should be taken by the world community of nations against all terrorism is this: the development of an international consciousness that condemns the basic causes of terrorism and that aims at removing them.

11. "Lasting peace can be built only on the firm foundation of justice. If there is to be peace, there must first be justice. ... Obstacles which stand in the way of justice must be removed; obstacles such as civil inequity, social and political discrimination, and misunderstanding between individuals and groups. There must be a mutual and abiding respect for others: for their persons, their rights and their lawful aspirations." (Letter to Cardinal Conway, L'Osservatore Romano, 18 March 1972, p. 1.)

12. International conventions are an important measure against terrorism. The existing international conventions regarding various aspects of the problem of international terrorism should be signed and ratified by all Members of the United Nations as soon as possible. New international instruments that are necessary for protecting the lives of the innocent victims and of potential victims, and their basic human freedoms should be enacted without delay through a wide co-operative effort on the part of all the nations. The community of nations should endeavour to define specific norms of international law in the matter, and as long as multilateral conventions cannot be fully implemented, the rights and lives of the innocent should be safeguarded also through bilateral agreements.

13. The Holy See wishes that, in order to deal effectively with this problem, the role of the international institutions be strengthened. In his Message for the Sixth World Day of Peace, 1 January 1973, Pope Paul VI declared: "Instead of seeking the solution to human rivalries in the irrational and barbarous test of blind and murderous strength in arms, we shall build up new institutions, in which discussion, justice and right may be expressed and become a peaceful law governing international relations. These institutions, and first among them the United Nations Organization, have been established. A new humanism supports them and holds them in honour. A solemn obligation unites their Members. A positive and world-wide hope recognizes them as instruments of international order, of solidarity and of brotherhood among the peoples." (L'Osservatore Romano, English edition, 14 January 1973, p. 12.)

14. The Holy See cannot but encourage the efforts and endeavours of all those who seek to eliminate the evil of international terrorism. Pope Paul VI expressed this same idea in his Encyclical Letter "On the Development of Peoples" (26 March 1967), No. 84: "Delegates to international organizations, it depends on you to see that the dangerous and futile rivalry of powers should give place to collaboration which is friendly, peaceful and free of vested interests, in order to achieve a responsible development of mankind, in which all men will have an opportunity to find their fulfilment."
1. In the view of the Government of Israel, General Assembly resolution 3034 (XXVII) of 18 December 1972, in concept, context and intent, is utterly oblivious of the imperative urgency of taking effective steps against international terrorism and other forms of violence which take - or endanger - the lives of innocent persons. That is the reason why, together with 35 other Member States, Israel voted against its adoption. The Government of Israel holds that terrorism, being a criminal activity directed against innocent persons and jeopardizing fundamental human freedoms, must be condemned and punished, categorically and unconditionally. A fortiori, terrorism must be forestalled and prevented.

2. A second, and hardly less compelling, reason is that the resolution took no account of the events that led to the General Assembly being seized of the matter, to wit, that, after a series of particularly outrageous acts of terror had been committed in various parts of the world, the Secretary-General requested the inclusion in the agenda of the twenty-seventh session of the General Assembly of the following item:

"Measures to prevent terrorism and other forms of violence which endanger or take innocent human lives or jeopardize fundamental freedoms."

3. This pressing plea by the highest officer of the United Nations was endorsed by a majority of Member States, and the records of the ensuing discussion are not lacking in expressions of abhorrence of terrorism, nor of emphasis on the need to restore security and decency of life in the international society. No Member State defended the assertion, by individuals or groups, of a right to employ indiscriminate violence in the pursuit of their objectives. Yet signs may also be perceived of callous and cynical detachment, chiefly displayed by speakers who were guided by the question who the victims happened to be, rather than by revulsion from the criminality of the means used. Thus, tainted by techniques of a hypocritical caucus, the resolution eventually adopted lamentably failed to fulfil its basic assignment. It reveals itself as unfit to be a proper approach to what persists as a burning problem of international public order.

4. In this connexion it is important to note, that the Commission on Human Rights, and in particular its Sub-Commission on Prevention of Discrimination and Protection of Minorities, have been deliberating the pertinent issues for more than 20 years. As everything germane to it has been studied and, by and large, brought to international attention in satisfactory formulation, it is a preposterous proposition that material causes of group discontent exist which have escaped notice, and the study of which are important enough to postpone effective international action against terrorism.

...
5. The current tide of terrorism is nothing new in international relations. None of the statesmen concerned with it today can be unaware of the consequences which 40 years ago arose from a comparable state of lawlessness, topped by incapacity to take purposeful preventive or corrective international action. In the summer of 1934, two Heads of State were assassinated - Chancellor Dollfuss of Austria and King Alexander of Yugoslavia. To the murder of Dollfuss, the American Secretary of State, Cordell Hull, reacted as follows:

"In July 1934 occurred the assassination of Austrian Chancellor Dollfuss engineered by Germany and Austrian Nazis. The President and I telegraphed our regrets, but there was no other move to take. Here again the Nazi mentality was revealing that any means were licit, however despicable, towards achieving its aims, however illegal" (Memoirs, vol. I, 1948, pp. 242-3).

6. After the Second World War, when the question of penal retribution was considered, the States which had first moved in that regard - the United States of America, France, the United Kingdom and the Soviet Union - acting in the interests of all the United Nations, drew up the London Charter of 8 August 1945, to which 19 other Powers, all Members of the United Nations, acceded in due course under conditions which left no doubt that they deemed crimes against innocent persons to be crimes whose categorical nature left no room for an appraisal of motives: whatever the motives, the crime was absolute and was adjudged correspondingly.

7. In proceeding in this manner, jurisprudence since 1945 has followed a line which is clear and unequivocal. A recent example of the same approach is the 1958 Convention on the High Seas, which, in its condemnation of piracy, makes no allowance whatsoever for the perpetrator's possible motive, whether it be misery or frustration, grievance or despair, greed or a pathological condition, or hatred of this or that nation, race or creed. Nor, when the prevention and prosecution of genocide were reviewed, did international legislation and jurisprudence take the course of studying motives. What characterizes crimes against humanity is that they are defined as crimes categorically and without qualification, as are, indeed, all other crimes directed against innocent men and women.

8. It should not be forgotten that it is trespassing perilously on the functions of the judiciary to include subjective elements in the law. It is the province of the judiciary to determine whether, and how, the subjective causes of an act affect the responsibility of the criminal, not least in respect of the punishment that is to be meted out. But such causes are not part of the legal description or definition of the crime.

9. Sociological analysis and responsibility for legal order are, however, different categories. The aims of penal law would be stultified if motivation
were put above the act itself - and if, on top of that, the plea of political purpose were given the power to prevent punishment. As one government pertinently observed, "under no circumstances is it admissible that individuals or a group, for the sake of advancing their own cause and in order to bring pressure to bear on some opponent, should deliberately inflict violence or the threat of violence on innocent persons". Particularly in matters of penal protection of random victims the law must be categoric.

10. It is a matter of grave concern that resolution 3034 (XXVII) forsook this approach. There can be no warrant for going into the psychological or psychopathological causes of the commission of terrorist acts against innocent persons as a condition prior to condemning them or so as to make their condemnation dependent on that preliminary study. The Government of Israel finds it impossible to avoid the conclusion that this insistence of first examining causes and motivations is no more than a subterfuge for delaying and obstructing the giving of attention to the real problem of international terrorism. Though it does not say so explicitly, the resolution might be construed as upholding the unacceptable thesis that the end - viz., strong political conviction of whatever kind - justifies any and every means. It may be added that such a thought would also be contrary to the basic Biblical concept that "God created man in His own image", and no man-made ideology can have the power to upset this order of values.

II

11. The annals of the League of Nations in this domain are not without a bearing upon the work of the Ad Hoc Committee. After the assassination of King Alexander of Yugoslavia and of the French Foreign Minister Barthou, on a motion by the French Government (League of Nations, Official Journal, 1934, p. 1939), a Committee of Experts was set up under a Council resolution of 10 December 1934 (ibid., pp. 1759-60). In the issue, a Convention was opened for signature at Geneva on 16 November 1937 (text in Hudson, VII. International Legislation, p. 862ff.). The Convention was signed by 13 States, 12 of them Members of the United Nations today; a fourteenth - India - signed and also ratified it. Ratification by the rest was obviously overtaken by the events leading to the outbreak of the Second World War. The very fact that, since then, the international society has been left without any authoritative guidance on these matters, has undoubtedly encouraged the growth and ubiquity of terrorism in its present dimensions.

12. In any fresh start, the point of departure must be the obligation of each responsible government, and no less, of each responsible international organization, to afford the general public full protection against policies that are pursued by methods of terrorism, methods chosen, and to a certain extent effective, because they threaten a public which senses its own non-involvement in the cause which the terrorists profess. These methods are founded on the further assumption that Governments, conscious of their obligation to protect the innocent, are likely to yield to extortion.
13. The Government of Israel is convinced that the duty and aims of the United Nations, where terrorism is concerned, can be accomplished only if adequate treaty obligations are undertaken. Taking methods, object and outcome together, and proceeding from the rationale of the 1937 Convention, it is submitted that, if a convention on this subject is to be genuinely operative, it is advisable to begin by defining terrorism. Any definition must specify that terrorism consists of an unlawful (criminal) act directed against a State, its organs, its nationals, interests, or property, including its means of transportation, whenever such act is meant or calculated to engender a state of terror or panic in the minds of the public as a whole, or of individuals, or of groups. It is self-understood that individuals, groups, interests, property and so forth are material in this connexion because the individuals involved, or the members of a group, are nationals of a specific State, or because the property or interest belongs to that State (or to its nationals) and serves its functions.

14. The main purpose of this approach is to avoid the pitfalls which are inescapable in any attempt to penalize certain acts casuistically, that is to say, only on condition that the acts are crimes of "international significance" and are acts of terrorism by that criterion alone. Such an attempt would disregard the basic doctrine that, properly understood, penalization has to do with crimes which are directed against the security of innocent persons and which because of being so directed, are of "international significance". A casuistical method is, accordingly, bound to be unduly limited and subjective. It is, moreover, essential to keep in mind that the criminal effect may be achieved directly as well as indirectly.

15. Short of defining and penalizing terrorism in general, any text would have to set out from an enumeration and definition of all such acts as, by virtue of their being "offences of international significance", would qualify as terrorism. Thus, one opinion has been that the only relevant act would be unlawfully to kill, to cause bodily harm to, or to kidnap another person. (It must also be stressed that, in this context, "unlawfully" means determined by international standards; a "kangaroo" court which takes it upon itself to pass sentences of death does not constitute a lawful process - it is terrorism, plain and simple.) Any provision of the kind would, therefore, remain unrealistically narrow, legitimizing terrorism, however lethal, if carried out in any other way, and pay no heed to indirect methods of killing, for instance, by creating a situation of uncontrollable panic within a certain public.

16. Furthermore, in order to integrate the Conventions of 1970 (The Hague) and of 1971 (Montreal) in the new instrument, all "harmful acts against property, including the infliction of damage to any means of transportation", must be included in the definition of terrorism.

17. No draft would be wide enough that considered an act as falling within its compass only when "committed" or "attempted". To answer the purpose fully, the compass, as in the 1937 Convention, should include conspiracies to commit any such act (article 3.1), incitement (article 3.2 and 3), wilful participation
in any such acts (article 3.4), assistance knowingly given (article 3.5), and
the manufacture, obtaining or possession or supplying of arms, ammunition,
explosives or harmful substances with a view to the commission in any country
whatsoever of an offence falling within the scope of that convention. There
is, as well, the crime of being an accessory after the fact - by abetting the
fugitive criminal, for instance. Each of these offences should be treated by
the law as distinct, lest it be possible for non-prosecution of one of them to
be enlarged so as to shield another.

18. It should not be difficult to provide that terrorism shall exclude acts
"committed either by or against a member of the armed forces of a State in the
course of military action". With this reservation, however, that, in this
respect, "military action" means only actions undertaken in conformity with the
international conventions in force, and in particular with the provisions of
article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War,
1949, 2/ and, specifically with subparagraph A (2)(d) - namely, that the
persons concerned conduct "their operations in accordance with the laws and
customs of war". It would be intolerable if a convention banning terrorism
were to permit groups of terrorists to engage in a type of "warfare", which a
codification of basic human rights has advisedly denied them.

19. Certain difficulties were encountered at The Hague and in Montreal, in 1970
and 1971, when the phrase "prosecution in accordance with the laws of that State"
was being construed. The argument turned on a central problem - whether political
crimes are "privileged" crimes, as is accepted in certain States, or whether acts
of terrorism are particularly odious because they are deliberately aimed at
innocent persons, picked as their target precisely for the reason that they are
innocent, and, therefore, crimes that merit punishment of greater severity, for
all that they are "political". The problem has been exhaustively discussed in
the context of the hijacking of civilian aircraft. So much that, expressly to
exclude any plea of mitigation on grounds of political purpose, a provision has
been inserted in The Hague Convention of 1970 (Hijacking), so that, in both
conventions, article 7 reads as follows:

"Those authorities shall take their decision in the same manner as in
the case of any ordinary offence of a serious nature under the law of
that State."

Thus it is definitely laid down in both these conventions that the political
motive, if any, of the crime should not be admitted as vouchsafing impunity.

20. On the central issue of extradition, the Government of Israel favours a
reaffirmation of principles which were faithfully upheld after the Second World
War in all cases concerning crimes against humanity - in essence, that a
terrorist, being humani generis hostis, must be handed over to the judicial
authorities of the community against which his act of terrorism had been
committed. Only in instances where overwhelming legal complications prevent his

extradition, should the criminal, in lieu thereof, be brought to justice in the State in which he was apprehended. If that State is without penal statutes that confer jurisdiction to try him, extradition is mandatory. Hence it will not be enough to describe terrorism as an "offence", a definition that would establish the principle that the courts of the contracting States are bound to try the offender - in so far, to be sure, as extradition has not taken place - without regard to his nationality or the place of commission of his offence. Accordingly, each contracting Party will be under the obligation to classify the defined acts of terrorism, wherever committed, as criminal offences.

21. In States which accept the principle of international recognition of previous convictions, foreign convictions for any of the offences mentioned in paragraphs 16 and 17 above will, within the conditions prescribed by municipal law, be taken into account as establishing habitual criminality.

22. Moreover, and under the same condition of universality and the same rules of jurisdiction, the following acts, when committed for the purpose of facilitating, aiding or abetting terrorist activity as it will be defined in the convention envisaged shall also be punishable:

(a) Any fraudulent manufacture or alteration of passports or other equivalent documents;

(b) Bringing into the country, obtaining or being in possession of such forged or falsified documents knowing them to be forged or falsified;

(c) Obtaining such documents by means of false declarations or documents;

(d) Wilfully using any such documents which are forged, falsified or were made out for a person other than the bearer;

(e) The wilful issuing of passports or equivalent documents, or of visas, by competent officials to persons known not to have the right thereto under the laws or regulations applicable, with the object of assisting any activity contrary to the purpose of the convention.

23. No reservations shall be admissible in respect of the signing and ratification of the convention envisaged.

24. Diplomatic or consular immunity must not avail against prosecution for any of the crimes defined in the convention.

25. To the extent that parties civiles are admitted under municipal legislation, foreign parties civiles, including, in proper cases, a High Contracting Party, should be entitled to all the rights allowed to its nationals by the law of the State in which the offender is tried.
26. It is important to keep in mind that the ongoing debate has four pertinent Conventions for its background: the Genocide Convention of 1948, the Tokyo Convention of 1963, the Hague Convention of 1970 and the Montreal Convention of 1971. All four are unambiguous as to the principles which they solemnly enshrine. Those principles, therefore, are part of the law in force, and it is beyond the competence of a study committee to adopt different principles as its rules of guidance. No such body can wield an authority which would prevent rules already laid down in a treaty from acquiring normative force, as a general norm, where backed in law by custom, morality and necessity.

27. Terrorism can take the particular form of armed attacks by gangs which, from a base in one State, operate across an international boundary or across a cease-fire, demarcation or armistice line and then return to their base to enjoy the protection and support of the Government of that State. In such operations, persons and property are indiscriminately assailed by gunfire, by the laying of mines, the throwing of bombs, the setting of ambushes, and the like. These are acts which systematically flout the statutory prescriptions of warfare. It will be noted that acts of indirect aggression are being condemned by the General Assembly since 1947 (resolution 110 (II)) with terrorism specifically mentioned since 1965 (resolution 2131 (XX)). The most explicit statement of the principles involved are the "Principles on Friendly Relations and Co-operation among States" (resolution 2625 (XXV)). Condemnation of aggression by means of terrorist violations of State territory figures in every definition of aggression since the two USSR-initiated and USSR-contracted Conventions in 1933. There is no doubt that the legal retribution for persons indulging in such activity is in no way different from that of terrorists using other criminal methods in their onslaught upon innocent persons. Certain aspects of hostile activity by irregular armed groups are, however, now under study at the instance of the International Committee of the Red Cross, and, in the circumstances, the Government of Israel would wish fully to reserve its position on the point for the time being.

28. In the context of Arab terrorism, it is the view of the Government of Israel that:

(a) The violent acts of the Arab terrorist groups, however styled, are acts constituting criminal offences and are punishable in accordance with the laws applicable to crimes;

(b) The members of the Arab terrorist groups do not belong to any of the categories of persons enumerated or described in the Third Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949; consequently, Israeli courts and tribunals have consistently dismissed the contention that members of the groups arrested are entitled to the status of prisoners of war;

(c) The groups are neither belligerents, nor entitled to claim any of the rights of belligerents.

/.../
29. Terrorism is directed against the very existence of States, the activity of Heads of State or of central organs of States, their representatives or basic public services. That being so, any terrorist act impinges upon the right of a State to self-preservation, and the States’ measures of repression of terrorist acts are legitimate measures of self-defence. In other words, to abet terrorism, and particularly to shield the centres where terrorist action is planned and equipped, must elicit measures of self-defence from one State against another. Any group of terrorists thus has it in its power to generate a threat to global peace. It would be extremely short-sighted, and hazardous in the event, not to see in this aspect of terrorism its full portent of anarchy.

IV

30. In the light of the tragic disasters and the outrageous crimes which led to this problem coming before the twenty-seventh session of the General Assembly, the convention envisaged would be ineffectual if it did not give categorical expression to the principle that organized society is in duty bound to protect the innocent, to prosecute terrorists, and to fetter the hands of any who succour them. The responsibility of Governments for a policy of this nature must be plainly declared. Where this obligation has been neglected, a right of self-defence arises, effective against any Government which supports, finances, or otherwise abets, terrorism. Wherever it is possible – as in international air communications – effective sanctions should be provided against Governments which act in any of these ways (i.e. support, finance, or abet terrorism).

31. The next General Assembly would be well advised to give all its attention to extirpating the crime of terrorism, with no further delay or digression. The Ad Hoc Committee will have to specify these acts of individuals or a group which are inadmissible whatever the circumstances. The Committee will have to specify the means of implementation of the duty to undertake effective measures of international co-operation in the repression of terrorism or the threat and preparation thereof; such means will have to include the exchange of information and assistance, in matters of prevention, prosecution, and extradition – as the case may be. All States should be enjoined to take appropriate measures at the national level for the fulfilment of their international obligations.

32. In view of the above observations it is hoped that the General Assembly would emit a solemn declaration,

(a) Reaffirming the faith of the peoples of the United Nations in fundamental rights, the dignity and the worth of the human person, and to practise, to this end, tolerance and peaceful coexistence as good neighbours;

(b) Condemning the perpetration of terrorist acts against innocent people and affirming the need to maintain their security and safety at all cost;

(c) Reaffirming the need for undisturbed diplomatic relations and the sacrosanctity of diplomatic representatives;
(d) Denouncing any State enabling or abetting terrorist acts by providing support, finance, protection, encouragement or shelter to the perpetrators of terrorist acts wherever committed;

(e) Stressing that the security of international peace and of international services is indivisible;

(f) Recognizing that acts of terrorism must never be considered as political crimes;

(g) Calling for effective sanctions through national and international action.

33. It is vital to underline that, as with piracy or crimes against humanity, the criminal practices dwelt upon in this memorandum are not limited to any specific State or to any particular juxtaposition of hostile parties. They explode in all areas of social tension. They exploit the techniques of modern communications and are within the reach of any individual, group or party. They are a threat not only to chance groupings of persons but also to entire international services and to everybody responsible for those services. Therefore, a treaty, to be of effect, must ensure protection, define responsibilities realistically, and punish the criminal and all his aides. Rules of any narrower scope - whatever their alleged justification - must be unavailing, if for no other reason than because any circumscription, like any loophole, teaches the criminal where to act, how to act, and thus avoid prosecution and punishment.

JAPAN

25 May 1973

/Original: English/
At the twenty-seventh session of the General Assembly, Japan stressed the need for urgently taking effective measures to eradicate from the international community abhorrent acts of terrorism against innocent persons, from the humanitarian standpoint that it is firmly opposed to any act of violence regardless of its cause and enumerated the following points as a means to jointly tackle this problem:

(1) Member States should make every effort to bring about effective domestic measures to combat international terrorism within the framework of their national legislation. These internal measures would include efforts to supply other countries with information pertaining to acts of international terrorism and the perpetrators of such acts.

(2) All States should, as a matter of urgency, become parties to existing international conventions (the Tokyo Convention, 1963, The Hague Convention, 1970, and the Montreal Convention, 1971) and implement them.

(3) The General Assembly should condemn acts of international terrorism.

(4) Concrete machinery aiming at securing effective measures to combat international terrorism should be established and be set in motion as soon as possible.

2. The General Assembly, at its last session, failed to condemn international terrorism and to clearly secure urgent and resolute measures to prevent it, in spite of the efforts made by many countries including Japan. The Government of Japan was not able to vote in favour of resolution 3034 (XXVII) because in many respects it did not meet Japan's position. Nevertheless, the Government of Japan is prepared to contribute actively to the work of the Ad Hoc Committee established by the said resolution aiming at joint international action.

The Government of Japan is of the view that the Ad Hoc Committee, bearing fully in mind that the condemnation and prevention of international terrorism are a matter of urgency in the international community, should consider the observations of States on this question and present to the General Assembly at its twenty-eighth session a report recommending effective concrete measures for the speedy elimination of international terrorism. For this purpose, the Government of Japan suggests the setting up under the Ad Hoc Committee of a sub-committee which will be entrusted with the task of considering in a concrete manner the content and method of possible effective measures to combat international terrorism. This would be the most efficient means to resolve expeditiously the questions posed by resolution 3034 (XXVII) in spite of their complexity and variety.

3. There is the question of studying the underlying causes of international terrorism when the Ad Hoc Committee considers measures to prevent international terrorism. The Government of Japan considers it necessary that the international community should make an elaborate study of such underlying causes and that every
State should make efforts to eliminate them at their root. Such efforts should be commenced urgently, but at the same time, an early result cannot be expected. The Government of Japan is fully aware of the importance of the study of underlying causes. However, in view of the immediate peril endangering innocent lives and fundamental human rights, the Government of Japan believes that the international community should make every effort to avoid a situation where the adoption of preventive measures is hampered by delay in studying the underlying causes.

At the twenty-seventh session of the General Assembly, some countries expressed their concern that the condemnation of international terrorism and measures to prevent it might prejudice the right to self-determination. The Government of Japan understands such preoccupations, but at the same time, it believes that a satisfactory formula can be worked out, if every country makes efforts to eliminate such concern in an accommodating spirit. In this connexion, the Government of Japan reaffirms its position that it respects the right to self-determination and recognizes its just exercise pursuant to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, and fully supports the conclusion of paragraph 10 of the study made by the Secretariat (A/C.6/418 and Corr.1 and 2 and Add.1).

NEW ZEALAND

24 May 1973

The Government of New Zealand fully supported the efforts of the Secretary-General to obtain a greater awakening of United Nations interest in the upsurge of acts of international terrorism, by proposing the inscription of an item on this subject on the agenda of the twenty-seventh session of the General Assembly. The Government and people of New Zealand were greatly shocked by the acts of terrorist violence that occurred last year, and the Government would wish to do all it can to eliminate the threat to innocent people which these actions represent. It has strongly maintained the view that no cause, however just, and no end, however worthy, can justify the terrorist in taking or risking the lives of innocent and unsuspecting people.

The Government of New Zealand was disappointed that the General Assembly was unable to arrive at a more adequate response to this pressing problem than is effected by resolution 3034 (XXVII) which, as the New Zealand representative in the Sixth Committee pointed out in a statement made on 8 December 1972 (see A/C.6/SR.1387, pp. 4 and 5), entirely failed to reflect the strength of feeling in New Zealand on this matter. The Government hopes, however, that the Ad Hoc Committee on International Terrorism established under that resolution will make real progress towards the conclusion of effective international measures to combat the problem. For its part, the Government considers that a new
international convention is needed along the lines of The Hague and Montreal Conventions of 1970 and 1971, and of the draft articles on the protection of diplomats produced by the International Law Commission last year. Such a convention would have, however, to be wider in scope than those rather specialized conventions, so as to ensure that the international terrorist is brought to justice regardless of the particular form of terrorism adopted or the status of the victim. In this connexion the Government would draw attention to the further comments on the possible nature and scope of such a convention contained in the statement made on behalf of New Zealand in the Sixth Committee on 20 November 1972 (see A/C.6/SR.1366, pp. 11-14).

In urging the early preparation of a new international instrument providing for effective measures against international terrorism, the Government of New Zealand does not overlook the importance of studying the underlying causes of international terrorism: but the Government believes that the community of nations would be failing in its duty if it awaited all possible information on the causes of international terrorism before taking effective measures to counteract it. Accordingly, in the view of the Government of New Zealand, the drafting of a new international convention should not be delayed until the completion of a study of the underlying causes of international terrorism.

NIGERIA

18 May 1973

The Permanent Representative of Nigeria in submitting the observations of Nigeria on General Assembly resolution 3034 (XXVII) presumes that the background to this resolution is sufficiently known to the Member States to require further comments from the delegation of Nigeria.

It would suffice to submit that the increase in the number of hijackings, the pathetic loss of lives in Munich, and the increasing danger of diplomats being kidnapped are some of the immediate causes which have led to this resolution. The matter becomes a very serious issue, in the view of the Nigerian delegation, when the supposedly inviolable persons and luggage of diplomats travelling on duty are searched, thereby flouting the provisions of the Vienna Conventions of 1961 and 1963 and ridiculing the efforts of the United Nations Committee on Relations with the Host Country.

The Secretary-General will recall that Nigeria's Commissioner for External Affairs made a statement on this issue during the last session of the United Nations General Assembly. This has been well recorded at page 69 of document A/C.6/L.867 and Corr.2. When the topic was discussed by the Sixth Committee, various views were expressed as contained in document A/C.6/L.866. In dealing with this issue, two questions stand out vividly:

/...
(a) What are the causes of the problem, and

(b) What measures are to be taken to solve the problem.

In trying to find out what the causes of this problem are, it would be advisable to consider the issues involved carefully. Generally, those referred to as "terrorists" in this matter behave the way they do because certain fundamental rights have been denied them. In Africa, for instance, there are liberation movements which resort to arms as a means of legitimately forcing the regimes of colonialists and racists to grant them independence and respect their inherent rights of self-determination. Elsewhere, notably in the Middle East, are groups of displaced persons who resort to "terrorist" acts in order to call the attention of the world to their plights. The difference is, that in doing this, their activities are not confined to their territories. Innocent victims become invariably the targets of their pent-up bitterness. As our Foreign Minister stated,

"It must be clear that peoples struggling to liberate themselves from oppression and exploitation have the right to use all methods at their disposal, including force."

What we would find difficult to support, however, is the activities which are perpetrated by common criminals to hijack planes and kidnap diplomats, as well as other important people, in order to extort financial benefits for themselves. No responsible Government or person would condone such acts by such individuals against innocent persons for their own personal gains or emotional satisfaction.

In order to solve these problems, it seems to the Nigerian delegation essential that the root causes should be understood and solved at that level. The Nigerian delegation notes that in a joint draft resolution submitted to the Sixth Committee by Afghanistan, Algeria, Guyana, India, Kenya and Yugoslavia, later joined by other countries (A/C.6/L.880), the General Assembly was asked to study the underlying causes with a view to finding a just and peaceful solution as quickly as possible, and was invited to recognize the importance of international co-operation in devising measures to effectively prevent the occurrence of acts of international terrorism. The draft went further to urge States to devote their immediate attention to finding a just and peaceful solution to the underlying causes which give rise to such acts of violence. The Nigerian delegation fully supported this draft resolution, while maintaining the stand that Nigeria is prepared to accede to any convention on this issue, if reservations are made in the light of its sovereignty and in the interest of the liberation movements in Africa.

The draft convention which has been put forward by the United States to deal with this matter (A/C.6/L.850) will not, in Nigeria's view, solve the problem which calls for an immediate solution. The procedural requirements of bringing a convention into force are too slow technically, and too complicated politically, to achieve the desired effect in this matter. On the contrary, the Nigerian delegation is suggesting that all States should again note seriously the decision
of the Security Council on hijacking as is reflected in document S/10705 of 20 June 1972. States should also be asked to submit evidence of their efforts, bilateral and regional, in promoting extradition treaties whereby persons who engage in "terrorist" acts, due reservations being made as far as liberation movements are concerned, could be dealt with under the principle of aut dedere aut punire. This could be supplemented by national legislation which could make such acts criminal offences.

The Nigerian delegation thinks that as the matter now stands, and judging by the feelings of some regional groups, it would suffice for the United Nations to adopt a general resolution,

(a) Asking Member States to note the decision of the Security Council referred to above and report on the measures they have taken:

   (i) To fight crimes at the international level, by concluding extradition treaties,

   (ii) To incorporate in their respective municipal law provisions making hijacking and the kidnapping of diplomats as well as other important persons criminal offences; and

(b) Inviting States who have not done so to ratify the Tokyo Convention on Offences and Certain other Acts Committed on Board Aircraft, and other relevant conventions on the safety of civil aviation.

The Permanent Representative of Nigeria to the United Nations wishes to observe in conclusion that the Nigerian delegation in no way thinks that its suggestions represent the panacea for this problem and would be quite prepared to discuss further any issues raised by its submission.

SWITZERLAND

5 June 1973

Switzerland uncompromisingly condemns recourse to terrorism in all circumstances, but it is aware that in some cases terrorism originates in serious political situations for which a solution has not been found. Of course, the historical explanation for a given situation does not suffice to exculpate the offenders in the eyes of the law.

In order to deal with terrorism effectively, it is necessary to study simultaneously its causes and means of eradicating it. These two studies are different in nature: one is historical, socio-economic and political, while the other concerns international penal law and mutual judicial assistance in penal matters. Both are essential, but it would be dangerous to defer the adoption of practical measures pending completion of the study of causes.
Unlike wrongful acts of violence committed by States, which are a direct violation of international law, terrorist acts committed by individuals come within the purview of internal legislation and the internal penal jurisdiction, subject to the responsibility of international law for denial of justice. That situation will persist until States have agreed, by concluding conventions, to submit this type of offence to international rules and an international jurisdiction. For the time being, therefore, the action of States must be aimed at establishing in this domain co-operation designed to ensure mutual judicial assistance which is as broad and effective as possible. Switzerland is ready to take this course.

UNION OF SOVIET SOCIALIST REPUBLICS

17 May 1973

[Original: Russian]

The position of the USSR on the question of "international terrorism" was set forth in the statements by the Soviet delegation at the twenty-seventh session of the General Assembly of the United Nations. The Minister for Foreign Affairs of the USSR, Mr. A. A. Gromyko, stated, inter alia: "The Soviet Union, basing itself on positions of principle, opposes acts of terrorism, which disrupt the diplomatic activity of States and their representatives, the transport communications between them and the normal course of international contacts and meetings. It opposes acts of violence, which serve no positive ends and cause loss of human life" (A/C.6/L.867 and Corr.2, p. 11).

The Soviet Union supported General Assembly resolution 3034 (XXVII), providing for measures to be devised to combat terrorism, on the basis of a study of its underlying causes, and for the establishment of an Ad Hoc Committee for that purpose.

The Soviet Union has no objection to the elaboration and adoption of an international convention which would impose definite obligations on States to prevent such illegal acts. However, the draft text of such an instrument should be based on a consensus among States wishing to put an end to acts of terrorism and should exclude completely any possibility of the interests of individual States and peoples being jeopardized. It is unacceptable to give a broad interpretation to the term "international terrorism" and to extend it to cover national liberation movements, acts committed in resisting an aggressor in territories occupied by the latter, and action by workers to secure their rights against the yoke of exploiters.

In considering the problem of action to combat "international terrorism", it is essential to define clearly which specific acts will be regarded as manifestations of "international terrorism". Obviously, this term must, in the first place, embrace premeditated acts of violence (murder, the inflicting of severe bodily injuries, and kidnapping), or attempts to commit such acts against foreign nationals, if such acts are based on political motives or lead to the disruption of transport communications, in particular, to the hijacking of aircraft. In this connexion the aforementioned acts committed against any...
foreign national, irrespective of his mission in the country where he is staying, should be regarded as manifestations of "international terrorism".

It is essential to take into account the fact that States bear unconditional responsibility for the adoption, at the national level, of effective measures to ensure the security of foreign nationals in their territory. Soviet legislation, in particular article 4 of the Act of the USSR concerning criminal liability for crimes against the State, of 25 December 1958, subsequently incorporated in the Criminal Codes of all the Union Republics, provides severe punishment for terrorist acts against representatives of foreign States.

The problem of "international terrorism" affects the interests of the peoples of all countries. In this connexion, the Soviet Union is prepared, in the light of the views of all States, to consider possible ways to ensure the adoption of effective measures with a view to preventing terrorist acts of an international character.

YEMEN ARAB REPUBLIC

4 June 1973
/Original: English/

The delegation of the Yemen Arab Republic has had the occasion to express its views on this item during the deliberations of the Sixth Committee at the twenty-seventh session of the General Assembly.

However, in response to operative paragraph 7 of General Assembly resolution 3034 (XXVII), the Permanent Mission of Yemen would like to submit, on instructions of its Government, the following observations:

Firstly, it is extremely necessary and important to define the concept of the term "terrorism" before one can embark on any substantive debate or pass any judgement on the measures to prevent it.

Secondly, it is equally important to make a clear distinction between terrorism and the struggle of the peoples who are fighting for their rights to self-determination and the dignity of mankind.

Thirdly, it is categorically unacceptable to try to exploit the discussion of the item in order to cast doubt on the legitimacy of the struggle of the colonized peoples for freedom and independence by all means available to them as laid down in the Charter of the United Nations.

Fourthly, it is the conviction of the Government of the Yemen Arab Republic that terrorism lies in the practices of the colonial Powers who for long have planted the seeds of evil and are directly responsible for the misery of mankind in Asia, Africa, and Latin America.
On the other hand, the United Nations is duty-bound to investigate and to include in its analytical study of the problem, the terrorist activities which have become a declared principle of the foreign policy of one Member State. In that direction, the Ad Hoc Committee should be guided by the Declaration of Principles on International Law concerning Friendly Relations and Co-operation among States and the Declaration on the Granting of Independence to Colonial Countries and Peoples. The studies of the problem should make a distinction between separate acts of violence carried out by desperate individuals and the terrorism practised in a systematic manner by some States Members of the United Nations and which has become the official policy of these States.

The United Nations cannot escape its responsibility towards the colonized peoples who are still under foreign and military occupation in the Middle East, in Africa, and in South-East Asia. The United Nations has assumed the responsibility by virtue of the Charter to assist peoples to gain their freedom, dignity and happiness.

The Permanent Mission of the Yemen Arab Republic wishes to emphasize the fact that the United Nations should take a strong stand based on the principles enshrined in the Charter of the United Nations to prevent the continuation of the terrorist activities practised daily by the Zionist State in the occupied Arab territories as well as the practices of the colonial Powers in the territories under their domination.

The Yemen Mission is hopeful that the Ad Hoc Committee on International Terrorism can make a valuable contribution to the discussion of the item during the twenty-eighth session of the General Assembly by providing guiding lines which reflect the views of the Member States and their proposals.