Master

FEATURES

"THE ROLE OF INTERNATIONAL LAW IN COMBATING TERRORISM," Department of State, Current Foreign Policy, January 1973.

"U.N. GENERAL ASSEMBLY ADOPTS CONVENTION ON PROTECTION OF DIPLOMATS," Department of State Bulletin, 28 January 1974.

"THE U.S. GOVERNMENT RESPONSE TO TERRORISM: A GLOBAL APPROACH" by Lewis Hoffacker, Department of State Bulletin, 18 March 1974.

"TERRORISM: THE COMPANIES IN THE GUERRILLAS' SIGHTS," Economist, 1 June 1974.

The three State Department articles attached give a fairly comprehensive view of the need for worldwide cooperation in curbing international terrorism, the problems in achieving effective international action and the international conventions now in existence which could become useful instruments against terrorism if ratified by a larger number of countries than is now the case. The Hoffacker article also goes into domestic measures taken by the U.S. Government. The Economist piece deals with terrorism against business representatives abroad.

This material provides convincing background for briefing media contacts, liaison or agents who are in a position to influence governments to support international efforts against terrorism.

State Department review completed

20 August '74

CURRENT FOREIGN POLICY

THE ROLE OF INTERNATIONAL LAW IN COMBATING TERRORISM

The deep concern of the United States about the spread of global terrorism and violence and the threat it poses to the basic right of the individual to security has been underscored in two recent speeches by key U.S. officials: John R. Stevenson, Legal Adviser of the Department of State, and Ambassador W. Tapley Bennett, Representative of the United States to Committee V (Legal) of the U.N. General Assembly. This pamphlet is based on those statements.

INTRODUCTION

The problem of international terrorism has significant political overtones, but the international legal initiatives the U.S. Government has taken in this area have been based on the humanitarian and economic interests of all nations. In taking these initiatives we have sought to avoid political complications in meeting a common danger.

There has been an alarming increase of late in incidents of international terrorism. These have not involved any one political cause or any one area of the globe. In Sweden, 90 people boarding an international flight were made hostage and held for ransom by Croatian terrorists. In Israel, 26 tourists, 16 of them Americans, were slaughtered in an attack at Lod Airport. As of November 1, 1972, 30 airliners from 14 countries had been successfully hijacked; 29 other hijacking attempts had been frustrated; 140 airplane passengers and crew had been killed and 99 wounded by acts of terrorism. Letter-bombs have been posted into international mail channels from Amsterdam, New Delhi, Belgrade, Singapore, Bombay, and Malaysia to individuals in countries around the world, including Canada, Austria, Argentina, United Kingdom, Australia, Egypt, Brazil, Cambodia, Italy, West Germany, and Jordan.

In the past five years a total of 27 diplomats from 11 countries have been kidnapped, and three have been killed.

These incidents bear witness to the terrible potential of a deranged or determined person or group to terrorize the international community. This potential for traumatic disruption appears to grow larger with the increasing technological and economic complexity of our society, and the frequency of such incidents may well be multiplied by the rapid and wide publicity they receive.

Secretary of State Rogers, addressing the U.N. General Assembly on September 25, 1972 underscored the gravity of the situation.

> "The issue," he said, "is not war—war between states, civil war, or revolutionary war. The issue . . . is whether millions of air travelers can continue to fly in safety each year. It is whether a person who receives a letter can open it without the fear of being blown up. It is whether diplomats can safely carry out their duties. It is whether international meetings, like this Assembly, can proceed without the ever-present threat of violence. In short, the issue is whether the vulnerable lines of international communication —the airways and the mails, diplomatic discourse and international meetings—can continue, without disruption, to bring nations and peoples together. All who have a stake in this have a stake in decisive action to suppress these demented acts of terrorism."

It may be impossible entirely to eliminate the threat of terrorism, but this is no excuse for inaction.

ROLE OF INTERNATIONAL LAW

In the effort to reduce the threat of terrorism, there is an important contribution to be made by international law. The U.S. Government is taking a leading role in this area. Our efforts are aimed at deterring terrorist acts by eliminating any safe haven for the perpetrators of these crimes. We are also attempting to establish a broad international legal and moral consensus that will discredit these activities and motivate both governments and private groups to discourage, rather than to support, these actions. To this end, the U.S. Government has supported a series of international treaties in which the states which are parties to the treaties pledge themselves either to extradite or to prosecute the perpetrators of specific offenses defined in those instruments. This has, of course,

involved as a corollary the establishment of a species of universal jurisdiction over the specified offenses—that of any state party where the perpetrator is found, regardless of where the offense was committed.

Obviously, the key to the success of this approach is widespread acceptance of the obligations of these treaties by the international community. Despite the revulsion to acts of terrorism felt in most countries of the world, there are serious problems in obtaining general acceptance of binding and effective international measures against terrorist acts. In some cases, particular states are deeply interested in the political aspirations of the terrorist groups. In other cases, states are inhibited by their commercial and political interests from taking strong measures against states which support the political cause of a terrorist movement.

Further, in many countries of the free world there is considerable attachment to the legal institution of diplomatic or territorial asylum, which has applied historically not only to such strictly political crimes as treason or sedition but also to certain common crimes directly connected with political activity such as organized rebellion. Perhaps most important is the regrettable fact that public opinion often views acts of terrorism from a political perspective rather than from a legal or humanitarian perspective.

In this context, the United States has thought it would be counterproductive, even if it were technically feasible, to attempt to define terrorism. Instead, we have attempted to identify specific categories of offenses which, because of their grave and inhuman effect on innocent persons, or because of their serious interference with the vital machinery of international life, should be condemned by states of every ideology and alignment.

These have included:

- *First,* hijacking and sabotage of civil aircraft;
- *Second,* the kidnapping and assassination of foreign diplomats and other foreign officials;
- *Third,* the export of international terrorism to countries not involved in the conflicts which spawned those acts.

Hijacking and Sabotage of Civil Aircraft

The first area in which widespread support for legal action developed was that of hijacking and sabotage of civil aircraft, which is extremely vulnerable to terrorist attacks. Such attacks have disastrous consequences for the civil aviation system.

The work in this field has been done in the International Civil Aviation Organization (ICAO) and its Legal Committee. Discussion of the first convention in the field began in 1950 and culminated with the adoption and signing at Tokyo in 1963 of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft.

The *Tokyo convention*, to which the United States became a party in 1969, provides a series of rules for the exercise of jurisdiction over offenses committed aboard aircraft in flight. The convention establishes neither exclusive jurisdiction nor universal jurisdiction; rather, it assures that at least the state of registration of the aircraft will have the competence to exercise its jurisdiction over crimes committed aboard that aircraft. In addition, the convention establishes certain rules of conduct for the commander and crew of the aircraft, and provides for rules and procedures for the disembarkation of an offender. Finally, the convention requires that a contracting state in which a hijacked aircraft lands must permit the passengers and crew to continue their journey as soon as practicable and return the aircraft and cargo to the persons lawfully entitled to their possession.

To deal specifically with the then-increasing numbers of hijackings, a second convention was prepared in ICAO and formalized at a diplomatic conference in December 1970 at The Hague. The United States became a party to it in 1971. *The Hague hijacking convention* applies to any unlawful seizure or exercise of control, by force or threat of force, or by any other form of intimidation committed on board a civil aircraft in flight, and to any attempt at such an act committed on board.

Each state is obligated to make hijacking punishable by severe penalties and to establish its criminal jurisdiction to cover cases where an alleged hijacker is present in its territory, regardless of where the hijacking takes place. If a state in which a hijacker is found does not extradite him, that state is obligated without exception whatsoever, and whether or not the offense was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. It is noteworthy that agreement on this convention was reached only after hijacking became a clear and increasing menace in many different parts of the world.

Two acts of aircraft sabotage occurred in Europe on February 21, 1970—one involving Swissair; the other, Austrian Airlines. Both aircraft were on international flights. The Swiss airplane tragically crashed, and all passengers and crew members were killed. As a result of these incidents, work was begun on a third con-

vention—*the Montreal convention*—adopted in September 1971. This convention covers sabotage of aircraft. It requires extradition or prosecution of persons who commit acts of sabotage or otherwise destroy aircraft, or who endanger the safe flight of an aircraft by damaging it, or by destroying or damaging air navigation facilities. The convention also covers acts of violence against persons on board aircraft and bomb hoaxes which endanger the safe flight of an aircraft. Basically, the provisions of this convention parallel those of The Hague convention.

Issue of Safe Haven

The adoption of rules that would appear sufficient to cover the problems of hijacking and sabotage of aircraft have, nonetheless, not eliminated the problem. While the attitude of all states toward hijacking has shifted, and hijackers rarely receive heroes' welcomes, there are still a number of states which continue to serve as a safe haven for hijackers. These states have not ratified the existing conventions. They continue to allow hijackers to land in their territory and to escape prosecution or extradition. Therefore, while we continue to work actively for more general adherence to the hijacking and sabotage conventions, we recognize that stronger action is required.

The United States has proposed a new treaty, supported most actively by Canada, which would provide a basis for joint action, such as suspension of all air service to countries which fail to follow the basic rules set out in The Hague and Montreal conventions. This would create a strong incentive toward compliance, for boycott action would entail isolation of a state from the international aviation system. An ICAO subcommittee met in Washington recently and considered a draft treaty cosponsored by the United States and Canada to accomplish this end. Because the concept, though eminently reasonable and justifiable, seems to some countries to be radical—i.e., inducing compliance from states to obligations recorded in treaties to which they are not parties—there has been significant resistance to the adoption of this treaty. However, even if the treaty that is finally adopted were only initially to attract a small number of like-minded states active in international civil aviation, its impact would be quite significant, for a nation that provided a haven for hijackers could have much of its civil aviation cut off.

In this connection, the ICAO Council on November 1, 1972 decided to convene a special session of the ICAO Legal Committee in January 1973 and to provide for the convening of a diplomatic conference on air security in August-September 1973.

Protection of Diplomats

A second specific and limited area in which we have sought to apply the techniques developed in the area of hijacking and sabotage is the protection of diplomats.

The first convention on this problem was drafted by the Organization of American States (OAS) at a special session of the OAS General Assembly held in Washington in 1971. The convention was drafted in that forum because of the self-evident need for action in the Americas. There had been more than a dozen incidents of kidnappings and violence directed against diplomats in six countries of the Western Hemisphere in the two prior years, nine of which involved U.S. personnel. Two ambassadors and an AID employee were murdered.

The OAS convention provides that kidnapping, murder, and other assaults against the life or personal integrity of those persons to whom the state had the duty under international law to give special protection, as well as extortion in connection with those crimes, shall be considered common crimes of international significance, regardless of motive. If the fugitive is not surrendered for extradition because of some legal impediment, the state in which the offender is found is obligated to prosecute as if the act had been committed in its territory. To make this procedure effective, it has been necessary to establish (1) a firm obligation to prosecute where extradition is withheld, and (2) a clear basis for jurisdiction based on the character of the offense, regardless of the place in which the crime is committed. President Nixon submitted the OAS convention to the Senate, which unanimously gave its advice and consent to ratification on June 12, 1972. The United States is awaiting the enactment of implementing legislation before depositing its instrument of ratification.

Despite the fact that the OAS convention is open for signature and ratification by other states, not just by members of the OAS, accession by many non-OAS members is not anticipated. Many states apparently prefer to develop another convention in the broader U.N. forum, based on the work and comments of a wider group of states.

In its 1971 report to the 26th session of the General Assembly of the United Nations, the International Law Commission (ILC) volunteered to develop such a con-

vention if the Assembly thought it desirable. The Assembly agreed, and asked the ILC to develop a convention on the protection of diplomats as quickly as it considered appropriate. The ILC responded to this call by developing draft articles at its 1972 meeting which form the basis for such a convention. These articles have been submitted to the 27th U.N. General Assembly. The ILC's draft articles vary somewhat from the OAS convention, but the aim of the two instruments is the same. They both require extradition or submission for prosecution of persons alleged to have committed certain enumerated crimes against diplomats.

In its report the ILC gave a detailed explanation of why it accepted various alternative ways of tackling the problems before it in drafting the articles. For example, the ILC did not list a series of covered crimes such as murder, kidnapping, and serious bodily assault because the commission thought these words would have significantly different technical meanings in the municipal criminal law of a large number of states. Instead, the ILC chose to use nontechnical and general language to describe the acts covered by the draft articles. Thus the ILC draft covers "violent attacks" upon the person or liberty of an internationally protected person, as well as violent attacks upon his official premises or residence if these are likely to endanger his person.

In his September 25, 1972 statement to the U.N. General Assembly Secretary of State Rogers called for urgent action and prompt adoption of a convention based on the ILC draft articles. This item was taken up first in the Legal Committee of the Assembly. In that committee the U.S. delegation sought the convening of an early diplomatic conference to adopt a convention. Despite the urgency of the matter, however, most delegations were not ready to adopt a convention without additional time to study it and to seek and circulate government comments on the draft articles. The committee therefore on October 20 decided that rather than request a special conference it would request government comments on the ILC draft articles and place on the Assembly agenda for 1973 the final elaboration of a draft convention on the protection of diplomats.

The process of seeking international cooperation for the protection of diplomats is founded, at least in part, on the recognized rule of customary international law that states have a duty to provide a special degree of protection to diplomatic agents. This includes taking reasonable preventive measures when required. Thus the Vienna Convention on Diplomatic Relations provides in article 29 that the receiving states shall treat the diplomatic agent "with due respect and shall take all appropriate steps to prevent any attack on his person, freedom, or dignity."

The obligation to provide domestic protection to diplomats was reflected in a statute passed by the Congress in 1790, which was based on Great Britain's Act of Anne of 1708. The congressional statute, codified in title 18 of the United States Code, provided for Federal criminal penalties for assaults on certain foreign officials. However, largely because of its limited scope and ambiguity, that statute has fallen into almost total disuse, and the protection of diplomatic agents in the United States has generally been left to State and local governments.

U.S. Legislation

With the increase in violence and threats directed against diplomats within the United States, especially in New York City where U.N. headquarters is located, there have been increasing repercussions on our international relations. For this reason, the U.S. Government developed new legislation which was submitted to the Congress jointly by the Secretary of State and the Attorney General in August 1971. This proposed legislation was designed to complement state law by making it a Federal offense to murder or kidnap, assault or harass foreign officials in the United States. The proposal also established a general rule prohibiting, under certain conditions, demonstrations within 100 feet of buildings belonging to or used by foreign officials. Finally, there was a provision outlawing the intentional destruction of property belonging to foreign officials.

After the tragedy at the Munich Olympics, a new provision was added to allow the Secretary of State to designate foreign nationals as official guests of the United States. Once so designated, most of the provisions described will apply to such guests. While the bill had a slow start in Congress, with the increasing domestic concern about the issue of terrorism, it ultimately received overwhelming support and President Nixon signed it into law (Public Law 92-539) on October 24, 1972. Enactment of this bill provides the Federal Government with crucial new legal authority to investigate or prosecute covered offenses.

Export of Terrorism: Draft Convention

Just as in recent years there has been an increase in attacks

against civil aviation and diplomats, in recent months we have witnessed a new and equally dangerous trend—i.e., a trend for terrorist groups to export their violence to countries not party to the conflict that spawned it. The Munich tragedy and its continuing progeny are prime examples of this trend. At Munich a Palestinian group attacked Israeli athletes. The attack took place not in the occupied territories, or in Israel, but in Germany—a country not a party to the Arab-Israeli conflict. The continuing attacks by letter-bombs provide additional examples of this trend to expand the locus of violence and to "internationalize" conflict.

Secretary of State Rogers circulated with his September 25, 1972 statement to the U.N. General Assembly a draft "Convention for the Prevention and Punishment of Certain Acts of International Terrorism," which is aimed at this ominous development. The draft convention does not seek to define terrorism or to deal with all acts which might reasonably be called "terroristic." Rather, it is a narrowly drawn convention which focuses on the common interest of all nations in preventing the spread of violence from countries involved in civil or international conflict to countries not a party to such conflict. This draft convention does not represent the final or only answer to the problem. It is one approach to that problem—an approach which the United States believes meets the most serious threats of violence, while at the same time remaining sensitive to the aspirations of peoples seeking to emerge from colonial status. The containment of violence within the narrowest feasible territorial limits has been a traditional function of international law in cases where it has been difficult to eliminate violence completely.

The convention covers certain criminal acts such as murder, kidnapping, or causing serious bodily harm.

The mechanism that limits the convention's scope to those cases in which we hope there will be an international consensus for joint action is the requirement that each of four separate conditions must be met.

• *First,* the act must be intended to damage the interests of or obtain concessions from a state or an international organization. This provision differentiates covered acts of international terrorism from everyday crimes dealt with by domestic criminal laws. For example, assume a citizen of another country is kidnapped in the United States. If it is done for ransom from a relative in the United States, it is a crime under U.S. law, but it is not covered by our draft. If, however, it is done to secure the release of guerrillas in the prisons of another country, it is also covered by the draft convention.

• *Second,* the act must be committed or take effect outside the territory of a state of which the alleged offender is a national. The convention does not seek to cover acts by a state's own nationals within the state's own territory even if the acts are directed against a third state. The problem of maintaining civil order among its own nationals in its own territory is primarily one for each state. Assume, for example, that a national of one state kidnaps a person, even a foreign national, in that state in an attempt to obtain the release of imprisoned persons. This act will be a crime under the state's criminal law but it is not covered by the convention.

• *Third,* the act must be committed or take effect outside the territory of the state against which the act is directed. That is, the convention is not aimed at acts taking place within a particular state and directed against that state even if committed by nonnationals. For example, if a guerrilla comes into a state of which he is not a national to commit a terrorist act directed against that state, that situation is left to that state to control and is not covered by the draft convention.

Though this third kind of violence is one dimension of the problem, it is more difficult to control and has not represented the principal thrust in the recent trend toward the spread of violence to third countries. Moreover, it is a dimension for which the primary responsibility and opportunity for control lie with the state attacked. There is one exception under the draft convention to this third condition: Acts committed or taking effect within the territory of the state against which the act is directed will be covered if the act is directed against a nonnational of that state. The attack at Lod Airport in Israel by Japanese terrorists is the most notorious example of this type of act.

• *Fourth,* the act must not be committed either by or against a member of the armed forces of a state in the course of military hostilities. If the army of a state carries out an attack against another state, that act is not covered by our draft convention. The legality of the attack will be judged by the law of war and the U.N. Charter. The attack may thus be either legal or illegal, and there is no implication of legality to be drawn from the fact that it is not covered by the draft convention.

Similarly, the new draft convention does not seek to replace existing or emerging international

rules for the conduct of armed conflict, such as the Hague Rules, the 1949 Geneva conventions, or the projected protocols which may emerge from the 1974 diplomatic conference to supplement the Geneva conventions. Moreover, the requirement also limits coverage on attacks against civilians and other noncombatants. This limitation parallels the general consensus in the law of war that it is not permissible deliberately to attack civilians or the civilian population.

All four of these conditions must be met for the convention to apply. Moreover, the convention deals only with the most serious threats to international order: acts involving unlawful killing, serious bodily harm, kidnapping, or attempts to commit these acts.

Despite its narrow focus, the convention would cover most of the recent acts of international terrorism, which evidence the dangerous trend toward expansion of violence to states not party to a particular conflict.

On the other hand the convention would not deal with internal conflicts within a state unless such conflicts were exported to the territory of third states or directed against third country nationals. Examples: The convention would neither cover the act of a freedom-fighter in Rhodesia or Angola who attacks a government soldier, nor an attack by a member of the Irish Republican Army against a British soldier in Northern Ireland.

Right of Self-Determination

Indeed, the convention does not affect the right of self-determination in any way. That right is enshrined in the U.N. Charter and is strongly reaffirmed in the General Assembly's Friendly Relations Declaration. The United States, in line with its own historic experience, is a strong supporter of that right. The convention would yield to any of the other more specialized conventions governing attacks against diplomats or civil aviation where such conventions are applicable. For example, the recent hijackings by Croatian terrorists in Sweden would be governed by the 1970 Hague hijacking convention if there were a conflict between that convention and the new draft convention.

By not seeking to cover all types of international terrorism, the United States does not mean to imply that all acts not covered are permissible and should not be of concern to the interested country. We are merely trying to concentrate on those categories of international terrorism which present the greatest current threat and on which there is the best chance of achieving international agreement. Many other kinds of terrorist acts, particularly the involvement of states in assisting terrorist groups, are already illegal under international law. They will remain illegal, wholly apart from the new convention.

Once the critical threshold of coverage is reached, the new convention would establish substantially the same framework for dealing with offenses as The Hague hijacking and Montreal sabotage conventions. That is, states party to the convention would be required to establish severe penalties for covered acts and either to prosecute or extradite offenders found in their territory.

In addition, the convention would create an obligation to cooperate with other parties to consider and implement measures to combat covered acts of international terrorism. By using The Hague-Montreal formula, as improved to some extent by the work of the ILC in the draft Convention for the Protection of Diplomats, we are seeking both effective measures and measures which, because of their widespread acceptance, maximize the chances of acceptance of the new convention.

The new draft convention was not voted upon by the U.N. General Assembly's 27th session. Instead, the Assembly's Legal Committee approved a resolution establishing a committee to study comments of member states on the problem and to explore the causes of terrorist acts.

International Action Urgent

We need to move forward from the principle of the General Assembly's Friendly Relations Declaration which provides that:

> "Every state has the duty to refrain from organizing, instigating, assisting, or participating in acts of civil strife or terrorist acts in another state or directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or a use of force."

International action will be taken, one way or the other. There is talk of like-minded states agreeing among themselves on controls and sanctions with respect to transport and other facilities under their jurisdictions. Private groups, such as airline pilot associations and labor organizations, speak of acting in their own self-defense. There have already been some moves along these lines. On two successsive days recently, news dispatches carried threats by British and Egyptian labor groups to impose sanctions on their own responsibility.

Such actions by groups of states rather than by the whole

international community, or by private organizations, would be less than complete in their application and far from fully effective in their results. They might, in fact, do more harm than good to the delicately interwoven and interdependent structure of modern communications and transportation. Such activities would, at the least, detract from the long efforts to build an orderly structure of international law. Such activities should be of first concern to members of the U.N. Legal Committee. The task of dealing with the effects of international violence on innocent persons is preeminently a role for the United Nations. The fact that no less than 92 sovereign U.N. member states included a discussion of it in their statements before the General Assembly shows that this issue is undeniably one of the difficult and complex problems demanding a practical solution from the United Nations.

Not only is the credibility of international law at stake in the U.N. debate on terrorism but also the type of world in which we and our children are going to live. A convention, by itself, will not make the world safe from terrorism, but failure to achieve a generally acceptable convention could only encourage increased resort to anarchy, violence, and terror. It is hard to believe that responsible governments will, in the end, decide to run that risk.

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U.N. General Assembly Adopts Convention on Protection of Diplomats

Following is a statement made in plenary session of the U.N. General Assembly on December 14 by U.S. Representative W. Tapley Bennett, Jr., together with the text of a resolution adopted by the Assembly that day.

STATEMENT BY AMBASSADOR BENNETT

USUN press release 134 dated December 14

This Assembly can justly be proud of having successfully completed its work on this important convention.

A debt of gratitude is owed to the International Law Commission. The Commission produced the excellent draft which was the basis of the Assembly's work and which by its excellence greatly facilitated our task. Since work of the highest caliber is what we can routinely expect from the Commission by now, it is worth noting that the Commission produced this draft at a single session in response to the request of the Assembly.

This effort which the Assembly has brought to fruition was in response to an urgent need. The long-established principle of the inviolability of diplomatic agents was being threatened by random acts of violence in various parts of the world. The continued effectiveness of diplomatic channels, the means by which states communicate with one another, has been jeopardized. Although the legal obligation to protect these persons was never questioned, the mechanism for international cooperation to insure that perpetrators of serious attacks against such persons are brought to justice, no matter to where they may flee, was lacking.

The Assembly here and now declares to the world that under no circumstances may a diplomat be attacked with impunity. In addition, the convention sets up a valuable legal mechanism which requires submission for prosecution or extradition of persons alleged to have committed serious crimes against diplomats. This mechanism is similar to that employed in the field of interference with civil aviation—specifically in the Hague (Hijacking) and Montreal (Sabotage) Conventions.[1] Indeed, many of the provisions of the new convention have been modeled on provisions of the Hague and Montreal Conventions. While the new convention in several cases makes drafting improvements or refinements, these are intended simply to clarify the intention of the previous conventions.

Paragraph 2 of article 1 defines the term "alleged offender." The definition, while couched in apparently technical language, must of course be read more broadly so it can be applied by the various legal systems. We shall regard it as incorporating the standard applied in determining whether there are sufficient grounds for extradition in accordance with normal extradition practice.

Article 2 of the convention defines the crimes covered. The Legal Committee decided to cover serious crimes, as was the initial intention of the International Law Commission. Subparagraph 1(a) has been clarified so that instead of referring to "violent attack" it refers to "murder, kidnapping or other attack." Obviously, the words "other attack" mean attacks of a similar

[1] For texts of the conventions, see BULLETIN of Jan. 11, 1971, p. 53, and Oct. 12, 1971, p. 465.

Dept of State BULLETIN, 28 Jan 74

United States Signs Convention on Protection of Diplomats

Statement by William E. Schaufele, Jr.[1]

I am gratified to sign today on behalf of the United States the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents.

As Ambassador Bennett assured the plenary in his statement on this subject, in the two weeks since the adoption of the convention by the Assembly my government has undertaken an urgent review of the final text of the convention. We have concluded that the text on the whole is excellent. In signing the convention, the United States signifies its intention to begin the necessary process of submitting the convention to the Congress and of seeking appropriate legislation in order to put us in a position to be able to ratify the convention.

Since the United States thinks this convention should go into force as promptly as possible, we have acted with a sense of urgency. Both the International Law Commission and the General Assembly considered the adoption of this convention a most urgent matter. Indeed, the preamble of the convention itself points to the concern generated in the international community by attacks on diplomats. The United States hopes that all other governments will consider the matter with a similar sense of urgency and take prompt action so that this convention can be brought into force as promptly as possible on a wide geographical basis.

[1] Made at U.N. Headquarters on Dec. 28 (USUN press release 140). Ambassador Schaufele is U.S. Deputy Representative in the U.N. Security Council.

serious nature to those expressly mentioned —murder and kidnapping. Covering threats, attempts, and accessoryship is appropriate because of the initial seriousness of the acts covered under subparagraphs (a) and (b) of paragraph 1.

The crimes covered in paragraph 1 of article 2 are those to which reference is made throughout the convention by the phrase "the crimes set forth in Article 2." Paragraph 3 of article 2 does not add to the crimes covered by the convention but merely states a basic fact that would be true whether or not this paragraph were included in the convention.

Together with articles 1, 2, and 3, articles 6, 7, and 8 join to form the basic mechanism of the convention. This mechanism is obviously central to the object and purpose of the convention, and without it the convention could not operate effectively.

Article 6 establishes the obligation upon states parties to insure the continued presence for the purpose of prosecution or extradition of an alleged offender when he is on the territory of that state party. The phrase "upon being satisfied that the circumstances so warrant" merely reflects the fact that before a state may take action it must know of the presence of the alleged offender in its territory.

The obligation in article 7 is clearly stated to be "without exception whatsoever." It forms a central part of the mechanism of the convention.

Several articles in the convention deal with cooperation among states in the prevention and punishment of the covered crimes. These are articles 4, 5, 6, 10, and 11. Article 4 deals with taking all practicable measures to prevent preparation for the commission of the covered crimes. The United States understands this obligation to refer to doing the utmost to prevent attempts to commit such crimes or conspiracy to commit such crimes. Article 10 is notable in that it substantially improves the prospects for proper presentation of cases when prosecutions are conducted outside the territory of the state party in whose territory the crime was committed. In such cases assistance in connection with the criminal proceedings, as well as the supply of all evidence at the disposal of other states parties, including witnesses who are willing or can be convinced to attend proceedings in another state, will be necessary for the mechanism of the convention to operate successfully.

Article 12 is a compromise article which was the result of a difficult negotiation. While the United States does not see the need for such an article in this convention, we recog-

nize that there are some other countries that believe it essential that such an article be included. This having been said, we worked cooperatively with those countries to draft an article that is limited in its scope and clear in its language. The article states that this convention shall not affect the application of treaties on asylum in force as between parties to those treaties *inter se*. That is to say, even if the alleged offender is present on the territory of one party to such a treaty and the state on the territory of which the crime has taken place is also a party to such a treaty, if the internationally protected person attacked exercised his functions on behalf of a state not party to such a treaty or the alleged offender was a national of a state not party to such a treaty, the state where the alleged offender is present may not invoke that treaty with respect to the non-party state. Thus, the non-party state can hold the state where the alleged offender is present to its obligations under article 7 and may, if it wishes, request extradition under article 8.

The United States would have preferred a stronger dispute-settlement provision than the one contained in article 13. The U.S. delegation made proposals to this end during the negotiations. However, many countries preferred to follow the model of the Hague and Montreal Conventions. Nonetheless, we are gratified that minor technical improvements have been made in paragraph 1 of article 13, which we consider reflect more precisely the intention of the drafters of the provisions in the Hague and Montreal Conventions.

We are also pleased that an acceptable compromise has been arrived at with regard to the final clauses which permits the widest possible adherence to the convention without placing the Secretary General in an impossible position.

Since the Assembly did such excellent work in completing the convention, we were pleased to vote in favor of the resolution which constitutes the formal act of adoption of the convention. Such a resolution constitutes the procedural step by which the international community, whether operating in the context of the General Assembly or a diplomatic conference specially convened for the purpose, concludes its legislative actions. While this resolution contains some paragraphs which we would not have considered necessary, we nevertheless see no particular harm in their inclusion since they do not purport to impinge—and of course cannot impinge—upon the convention. One such paragraph restated propositions we were all pleased to accept in the authoritative Friendly Relations Declaration at the 25th session. It is perhaps always useful to recognize fundamental human rights, including the legitimate exercise of the right of self-determination in accordance with the charter.

Regarding the injunction in paragraph 6 of the resolution to the United Nations to publish the resolution in conjunction with the convention, we consider that this requires the convention to be published as part of the United Nations volumes of resolutions of the General Assembly; in addition, the idea of including the resolution in the treaty series for information purposes could be regarded as useful in that those referring to the treaty series can conveniently have ready access to the resolution.

The convention will be opened for signature today, and my government has begun the necessary review of the final text in order to enable us to sign it before the end of the year. We hope a number of others will do likewise.

The convention would not have been possible without the positive cooperation of all regional groups. Such cooperation was forthcoming, and as a result this Assembly has a major positive achievement.

TEXT OF RESOLUTION [2]

The General Assembly,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

[2] U.N. doc. A/RES/3166 (XXVIII); adopted by the Assembly without objection on Dec. 14.

Recalling that in response to the request made in General Assembly resolution 2780 (XXVI) of 3 December 1971, the International Law Commission, at its twenty-fourth session, studied the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law and prepared draft articles on the prevention and punishment of crimes against such persons,

Having considered the draft articles and also the comments and observations thereon submitted by States and by specialized agencies and intergovernmental organizations in response to the invitation made in General Assembly resolution 2926 (XXVII) of 28 November 1972,

Convinced of the importance of securing international agreement on appropriate and effective measures for the prevention and punishment of crimes against diplomatic agents and other internationally protected persons in view of the serious threat to the maintenance and promotion of friendly relations and co-operation among States created by the commission of such crimes,

Having elaborated for that purpose the provisions contained in the Convention annexed hereto,

1. *Adopts* the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, annexed to the present resolution;

2. *Re-emphasizes* the great importance of the rules of international law concerning the inviolability of and special protection to be afforded to internationally protected persons and the obligations of States in relation thereto;

3. *Considers* that the annexed Convention will enable States to carry out their obligations more effectively;

4. *Recognizes also* that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to self-determination and independence in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and *apartheid*;

5. *Invites* States to become parties to the annexed Convention;

6. *Decides* that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

ANNEX

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "internationally protected person" means:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;

2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

Article 2

1. The intentional commission of:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such attack

shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

ARTICLE 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State;

(c) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

ARTICLE 4

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

(a) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;

(b) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

ARTICLE 5

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

ARTICLE 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

(a) the State where the crime was committed;

(b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

(c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;

(d) all other States concerned; and

(e) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and

(b) to be visited by a representative of that State.

ARTICLE 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

ARTICLE 8

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offenses in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes.

Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

ARTICLE 9

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

ARTICLE 10

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

ARTICLE 11

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

ARTICLE 12

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

ARTICLE 13

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

ARTICLE 14

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

ARTICLE 15

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 16

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 17

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 18

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

ARTICLE 19

The Secretary-General of the United Nations shall inform all States, *inter alia*:

(a) of signatures to this Convention, of the deposit of instruments of ratification or accession in

accordance with articles 14, 15 and 16 and of notifications made under article 18.

(b) of the date on which this Convention will enter into force in accordance with article 17.

ARTICLE 20

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.

U.S. Approves UNHCR Efforts To Secure Rights for Refugees

Following is a statement made in Committee III (Social, Humanitarian and Cultural) of the U.N. General Assembly on November 26 by U.S. Representative Clarence Clyde Ferguson, Jr., together with the text of a resolution adopted by the committee on November 27 and by the Assembly on December 14.

STATEMENT BY AMBASSADOR FERGUSON

USUN press release 118 dated November 26

My government wishes to commend the High Commissioner for his excellent report.[1] It is a particular pleasure for me to note the fine humanitarian work that he is doing throughout the world. I personally count it a privilege to have been able to work with the High Commissioner on other occasions on many matters of great import.

Perhaps no other group has suffered the almost complete deprivation of human rights as have had refugees. No other group has been so shorn of hope. It is the task of the U.N. High Commissioner for Refugees (UNHCR) to rebuild that hope. This requires above all the restoration to refugees of a great many of those very rights which are so clearly enunciated in the Universal Declaration of Human Rights.

We consider that Prince Sadruddin Aga Khan has brought the influence of his office to bear, in the most salutary fashion, upon the lives of refugees the world over. His humanitarian work has also contributed significantly to the stability of the countries of asylum for refugees.

My government has consistently stressed the overriding importance of the function of international protection of refugees among the activities of the UNHCR. In the first instance it is essential that effective safe haven or asylum be secured for refugees. The provision of asylum is the function and the duty of the country into which the refugee has fled. But it is likewise the duty of the High Commissioner to maintain close coordination with governments of asylum countries, with the view to insuring that the forcible return of refugees to their country of origin—refoulement—shall not take place. Indeed, the High Commissioner is given a supervisory function in that respect by two international treaties—the 1951 U.N. Convention and the 1967 Protocol Relating to the Status of Refugees.

These treaties are surely two of the most important instruments yet formulated to implement the Universal Declaration of Human Rights. Both treaties recognize the priority need for protecting the actual safety of the refugee. Some 67 nations have thus far acceded to one or both of these international treaties. Yet it remains true that roughly one-half of the nations of the world have not yet accepted either treaty. My government applauds the High Commissioner for his unrelenting efforts to secure further ratifications of the refugee convention and protocol.

My government finds it particularly disturbing to learn that cases of refoulement continue to occur. We deplore the fact that any country would knowingly depart from the time-honored U.N. principle that any repatriation of refugees must be voluntary,

[1] U.N. doc. A/9012.

The U.S. Government Response to Terrorism: A Global Approach

Address by Lewis Hoffacker [1]

The world has lived with violence and terror since the beginning of time. But we now are experiencing new forms of international terrorism which have reached the point where innocent people far removed from the source of a dispute can be victimized. Nothing has more dramatically underscored this fact than the cruel tragedies at the Munich Olympics of 1972, the virtual epidemic of kidnapings in Latin America, and the wanton murder of two of our diplomats and a Belgian official in the Sudan.

These and other incidents bear witness to the terrible potential of a disturbed or determined person or group to terrorize the international community. Moreover, this capability for traumatic disruption of society appears to expand with the increasing technological and economic complexity of our society and with the added incentive of wide and rapid publicity.

What is terrorism? Last summer a U.N. group failed to agree on a definition of the term and became diverted by an inconclusive discussion of the causes and motives of terrorists. Such disagreement, however, should not deter us from getting on with the business at hand, which we, for our working purposes, regard as defense against violent attacks by politically or ideologically motivated parties on innocent bystanders who fall under our protective responsibility. I am talking primarily of Americans abroad and foreign officials and their families in this country. At the same time, we are concerned with terrorism throughout the world, even though our people may not be directly involved, since this is a global phenomenon to which we are all vulnerable and which we cannot solve without global attention.

The U.S. Government has responded forthrightly to this serious challenge in fulfillment of its traditional responsibilities to protect its citizens and its foreign guests. In September of 1972 President Nixon established a Cabinet Committee To Combat Terrorism to consider, in his words, "the most effective means by which to prevent terrorism here and abroad." The Secretary of State chairs this Committee, which includes also the Secretaries of the Treasury, Defense, and Transportation, the Attorney General, our Ambassador to the United Nations, the Director of the FBI, and the President's Assistants on National Security and Domestic Affairs. This body is directed to coordinate interagency activity for the prevention of terrorism and, should acts of terrorism occur, to devise procedures for reacting swiftly and effectively.

Under the Cabinet Committee, a Working Group composed of personally designated senior representatives of the members of the Cabinet Committee meets regularly. It is this Group which I chair and which is in daily contact as issues arise and incidents occur. While we would prefer to be a policy planning body dealing in preventive measures, we are geared to respond to emergencies.

[1] Made before the Mayor's Advisory Committee on International Relations and Trade and the Foreign Relations Association at New Orleans, La., on Feb. 28. Ambassador Hoffacker is Special Assistant to the Secretary and Coordinator for Combating Terrorism.

Over the past year and a half, this interagency group has dealt with a wide variety of matters and in my view has made us as a government more effective in responding to the continuing threat from a variety of organizations or individuals seeking to strike at us at home and abroad. This is not to say that we have solved all the problems facing us. But we are using governmentwide resources to better advantage and have at least reduced the risk to our people and our foreign guests. We must face the reality that there is no such thing as 100 percent security. But we are doing our job if we reduce risks to a practical minimum.

Resources To Deter Terrorism

I would like to make clear at the outset that individual departments and agencies continue to manage programs dealing with terrorism under their respective mandates. The important difference is that these efforts, which individually deserve commendation, are now fully coordinated and consequently are greater deterrents to potential terrorists.

Intelligence is one of our more valuable resources in this self-defense endeavor. All security agencies have improved the quality of their intelligence relating to terrorism, and the Working Group insures that this product is fully shared and coordinated throughout the government.

Abroad, security at our embassies and consulates has been steadily improved. Last summer the President submitted to the Congress a request for $21 million for personnel and materials to better our overseas security and, hopefully, reduce the risk which our official personnel suffer throughout the world. These funds are now being disbursed, based on highest priority needs at our posts abroad.

We are mindful that our mandate also covers private citizens as well as American officials. For example, we are pleased to advise American businessmen with overseas interests. Our embassies and consulates are in constant touch with American businesses abroad, especially in such places as Argentina, where they are particularly vulnerable. We are prepared to share with them security techniques and experiences. Although we may not agree on tactics such as the advisability of paying ransom, it is important that we stick together in tight situations such as Buenos Aires, where terrorists have taken advantage of serious internal security deficiencies to kidnap businessmen for increasingly higher ransoms. We were concerned with the Bank of America case in Beirut, where a representative of Douglas Aircraft was murdered by bank robbers posing unconvincingly as *fedayeen*.

Visa, immigration, and customs procedures have been tightened. The regulation allowing a foreigner to transit the United States without a visa has been suspended except for passengers with immediate onward reservations to a point outside the United States. This suspension applies to every traveler on a nondiscriminatory basis and closes a loophole through which 600,000 visitors per year formerly passed.

In several categories of visa applicants which have been particularly susceptible to terrorist penetration, deeper screening of applications has shown some useful results.

In the fall of 1972 Congress approved a public law aimed at increasing protection for foreign officials and their immediate families in this country through the creation of Federal criminal offenses for various acts directed at them and at other official guests. Under this legislation the FBI has investigative jurisdiction concurrent with that already held by local law enforcement authorities. This expanded legal coverage of our foreign guests will, hopefully, add a further deterrent to those who might be tempted to molest them. There has been one conviction under this law, and several other cases are now before Federal courts or are expected to be submitted soon.

For some time the Postal Service has alerted post offices and other likely targets of letter-bomb activity. Many hundreds of such devices have been circulating internationally. Some have been intercepted in this country by alert customs and postal em-

ployees, with one injury sustained by a postal clerk in the process. Unfortunately a letter bomb exploded in the British Embassy last September, maiming a secretary and illustrating dramatically that international terrorists can probably penetrate our security screen.

Hijacking within the United States has fallen off significantly since the beginning of last year. This happy trend is not just a stroke of luck. Aside from the rigorous airport security program now underway, a principal factor in this favorable evolution is the bilateral agreement with Cuba whereby hijackers are denied asylum in that country. Other countries, with or without our encouragement, have taken similar steps to close their doors to individuals who look for refuge from prosecution after a hijacking. Let us recall, at the same time, that the domestic variety of hijacker in the United States is usually different from those who operate abroad, often with special ruthlessness, under the control of terrorist organizations.

U.S. International Initiatives

The United States has been busy internationally. We have been in the forefront of those who have sought tightened international air security.

We have pressed for three important multilateral conventions dealing with hijacking: the 1963 Tokyo Convention, which in effect requires countries to return a plane and passengers if it has been hijacked; the 1970 Hague Convention, which says that countries should either extradite or prosecute the skyjackers; and the 1971 Montreal Convention, requiring that any kind of sabotage of aviation such as blowing up planes on the ground be dealt with by prosecution or extradition of the offenders. We had modest expectations as we sent a delegation to two conferences in Rome last summer in the hope that the international community would advance a step forward in tightening controls on skyjackers and aerial saboteurs.

Despite our disappointment over the meager results in Rome, we are confident that there remains a sufficient sense of international responsibility and national self-interest to make possible other steps to discourage those who would threaten international air travelers. For one thing, we are seeing a steady stream of accessions to the aforementioned conventions by countries representing all ideologies. This in itself should have a good deterrent effect.

In Interpol [International Criminal Police Organization], in the Organization of American States, and in other appropriate forums, we achieve what is feasible in the way of multilateral discouragement of the international terrorist. Simultaneously we maintain quiet liaison with individual governments which share our abhorrence of terrorism. We are pleased to assist others when they suffer hijackings by providing communications and other services even though the affected plane may not be over or in our country.

At the United Nations in 1972 we sought to prohibit the export of violence to innocent persons who are many countries, sometimes continents, removed from the scene of a conflict. This approach became bogged down in debate over what some countries called justifiable, as opposed to illegal, violence even against innocent parties. Accordingly, for the time being we have narrowed our objectives to more specific categories of offenses which, because of grave and inhuman effect on innocent individuals or because of their serious interference with the vital machinery of international life, should be condemned by states of every ideology and alignment. We therefore supported in the last General Assembly a convention for protection of diplomats. The Assembly agreed in December to this measure, which requires that persons who attack or kidnap diplomats or officials of foreign governments or international organizations be extradited or prosecuted.

Dealing With Crisis Situations

If in spite of all our efforts, an act of terrorism should occur, we are prepared to deal with it as swiftly and effectively as possible. Within the State Department, task forces can be assembled on short notice to

manage such critical events as the Southern Airways hijacking, the seizure of American diplomats in Haiti, the murder of two of our officers in the Sudan, the kidnaping of our consul general in Guadalajara, the hijacking last summer of the Japanese airliner out of Amsterdam, the attack on emigrant Jews in Austria last fall, various incidents at Rome and Athens airports, and the recent terrorism in Karachi and Singapore harbors and in Kuwait.

Such task forces are composed of selected specialists who can call on the full resources of the U.S. Government to rescue, or at least to monitor, the beleaguered parties. The State Department Operations Center, which is the site of such task forces, is in instant contact with the White House, Pentagon, CIA, and other agencies concerned, as well as with foreign governments and overseas posts. By swift and intelligent action in such circumstances we, hopefully, can overcome the terrorists by one means or another.

Firmness in Response to Terrorism

Tactics vary in each crisis situation, but one consistent factor should be understood by all parties concerned: The U.S. Government will not pay ransom to kidnapers. We urge other governments and individuals to adopt the same position, to resist other forms of blackmail, and to apprehend the criminal attackers.

I hasten to underline the importance which we attach to human life. We do not glibly sacrifice hostages for the sake of this admittedly firm policy. We believe that firmness in response to terrorists' threats, if applied with the best diplomacy we can muster, can save lives in the long run and probably in the short run as well.

We have had more terrorist experiences than we had anticipated in the past five years, during which period 25 of our officials abroad who normally enjoy diplomatic protection were kidnaped. Ten of these individuals were murdered and 12 wounded. When we Foreign Service people elected to follow this career, we appreciated that there were risks different in type and intensity from those to which we are exposed in this country. Abroad we experience increased threats of subversion, kidnaping, blackmail, civil disturbances, and politically motivated violence, including assassination.

In my 23 years' Foreign Service experience, mostly abroad in the Middle East and Africa, I have not seen any of our people behave cowardly in a dangerous situation. We have learned to take reasonable precautions. We do not want to live in fortresses or armed camps. We use ingenuity to reduce risks. Most importantly, we must remind the host government of its undoubted responsibility for protecting foreigners within its territory. I recall, for example, when I was once put under house arrest by an angry Minister, I reminded him and his government that that government continued to be responsible for my personal security and would face dire consequences if anything happened to me. I am glad to report that my consular colleagues rallied round me and after a week I was able to resume my normal movements.

It would be unfair to assign labels to countries as to their hawklike or dovelike qualities in facing up to the terrorist challenge. Each country naturally performs in the light of its own interests, which may vary from case to case. Some are more cautious than others to avoid provoking militants who engage in terrorism. Even countries friendly to us are understandably selfish about their sovereign right to decide what is best in a terrorist confrontation; e.g., whether or not to yield to demands for ransom, release of prisoners, et cetera. Moreover, we in the United States have not found ourselves in excruciating circumstances such as some countries like Haiti or Mexico have undergone with foreign diplomats held in their territory under terrorists' guns.

The U.S. approach to counterterrorism is based on the principle derived from our liberal heritage, as well as from the U.N. Declaration of Human Rights, which affirms that every human being has a right to life, liberty, and "security of person." Yet the violence of international terrorism violates that principle. The issue is not war. The issue is

not the strivings of people to achieve self-determination and independence. Rather the issue is—and here I quote from former Secretary of State Rogers before the U.N. General Assembly:[2]

> (The issue is) whether millions of air travelers can continue to fly in safety each year. It is whether a person who receives a letter can open it without fear of being blown up. It is whether diplomats can safely carry out their duties. It is whether international meetings—like the Olympic games, like this Assembly—can proceed without the ever-present threat of violence.
>
> In short, the issue is whether the vulnerable lines of international communication—the airways and the mails, diplomatic discourse and international meetings—can continue, without disruption, to bring nations and peoples together. All who have a stake in this have a stake in decisive action to suppress these demented acts of terrorism.
>
> We are all aware that, aside from the psychotic and the purely felonious, many criminal acts of terrorism derive from political origins. We all recognize that issues such as self-determination must continue to be addressed seriously by the international community. But political passion, however deeply held, cannot be a justification for criminal violence against innocent persons.

The United States has attempted to show leadership in stimulating a global preoccupation with this apparently growing international threat. We have not achieved all that we have sought in international cooperation. Our multilateral, bilateral, and unilateral efforts must continue because the outlook is not as promising as it might be. There seems to be increased collaboration among terrorist groups of different nationalities. Such groups seem to be moving farther and farther afield, including toward North America. There is, moreover, evidence of ample financial sources for some terrorist groups not only from ransoms collected but also from governments which, for one reason or another, are sympathetic toward certain terrorist groups. And last but not least, there seems to be no shortage of politico-economic-social frustrations to spawn terrorists on all continents.

Accordingly, we must increase our vigilance, our expertise, and our determination in the face of what may be an expanding threat to our personnel and other interests abroad, as well as on the homefront. In fact, this global epidemic still threatens the very fabric of international order.

We as a government must be cool and tough—and I might add, sensitive—in responding to these vicious attacks against our citizens and other interests. As we seek to defend ourselves against this viciousness, we are not unmindful of the motivation inspiring the frustrated political terrorist who feels he has no other way to deal with his grievances than by terrorist action. As ways are found to convince him to reason otherwise, he must be made to understand now that it is unprofitable for him to attack innocent bystanders.

In the meantime also, we as a government have a continuing obligation to safeguard the most fundamental right of all—the right of life. There is no reason why protection of this right and of our citizens need necessarily conflict with other human rights such as self-determination and individual liberty.

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[2] For Secretary Rogers' statement before the U.N. General Assembly on Sept. 25, 1972, see BULLETIN of Oct. 16, 1972, p. 425.

The companies in the guerrillas' sights

Breaking with a long tradition, the social arbiters of Boston decided not to publish the local debutantes' list this year. It was one sign of how wealthy Americans, shaken by the Patty Hearst affair and a series of kidnappings of American executives abroad, are coming round to the idea that low visibility may be one way of escaping terrorist attack. The reason for their concern is obvious: today, private corporations and prominent businessmen are as much the targets for political terrorists as governments, and tend to be even more vulnerable.

The ideological pretexts for such attacks usually boil down to Proudhon's bald assertion that "property is theft". This, it appears, is seldom so bitterly felt as by people such as Dr Bridget Dugdale—charged with the £8m art theft in Ireland—who are reacting against their own affluent family background. But the terrorists' favourite corporations tend to be those whose activities can most easily be reconciled with a conspiracy theory of multinational string-pulling. Over the past six months, for example, offices of the International Telephone and Telegraph corporation in Nuremberg, west Berlin, New York, Rome and Paris have been bombed. In all but one instance the bombers (who included the so-called "Black Help" group in Germany, a successor to the Baader-Meinhof organisation, and a French group that calls itself, with frankness if not profundity, "We Must Do Something") were reacting to disclosures of ITT's political meddling in Chile.

Palestinian groups such as Dr Habash's Popular Front for the Liberation of Palestine (PFLP) are known to have short-listed companies with Jewish directors or with business interests in Israel; the chances are that there will be a new terror campaign to follow the past letter-bomb attacks on Jewish businessmen in London and the attempt on the life of the chairman of Marks and Spencer. Recent threats against companies with interests in South West Africa by a group calling itself the "Friends of the United Nations" have been dismissed as a bluff. But it is equally on the cards that a South African (or South African-related) guerrilla group will also try out the methods of kidnapping and extortion that have been used with spectacular success in Argentina and by groups like the Red Brigade in Italy (see page 41).

But the main reason for terrorism against corporations is simply that it has been proven again and again that they are readier to give in to ransom demands than governments—and are likely to pay faster. Some governments have tried to prevent the payment of blood money, with varied results. In Northern Ireland (where the directors of a company that paid ransom could, under the emergency regulations, be detained without trial) this may explain why only one private businessman has been kidnapped so far—although it was no help to Herr Niedermayer. In Argentina, where the security forces have been manifestly unable to contain political kidnapping, the attempt to prevent Fiat from negotiating with the People's Revolutionary Army (ERP) over the kidnapping of an executive, Sr Oberdan Sallustro, in March, 1972, resulted in his murder—and led to the cave-in of both the government and the companies in the subsequent chain of abductions.

The situation in Argentina (see page 38) is a showpiece of how ordinary criminals, scenting rich returns, have joined the attack on the corporations under the camouflage of a political cause. There were more than 400 kidnappings in Argentina last year; and to date the pace-setting ERP is thought to have netted more than $30m in ransom money, including the record $14.2m that Exxon paid out for the general manager of its Campana refinery, Mr Samuelson, in April. But the Buenos Aires mobsters have had their share of the pickings. The local police believe non-political groups were responsible for the kidnappings of an Amoco oil executive, Mr Willkie, last October (producing a reported ransom of $1m); of a Peugeot executive, M. Boisset, in December (released in March for a reported $3m); and of Pepsico's Buenos Aires director in January.

Kidnapping is not the only means of extortion that has been used effectively against private corporations. The mere threat of sabotage or assassination—often conveyed by cassette tapes—has induced several American corporations in Argentina to meet blackmail demands, starting with Ford's payment of $1m to the ERP in March last year. The Popular Front for the Liberation of Palestine is reported to have been successful in extorting protection money from four of the western airlines that fly to Lod in Israel. It seems probable that future variations in the pattern of political blackmail will include threats of sabotage against extremely vulnerable but easily damaged installations such as oil rigs, oil refineries and computer complexes and the broadening of kidnap targets to include executives' families and junior staff members. An American company might arguably come under greater psychological pressure to pay out for a black storeman than for, say, a white managing director.

Thus the list of targets for terrorism is expanding at the same rate as the number of urban guerrilla groups. Some idea of the ruthlessness of the modern terrorist can be gleaned from the instructions on kidnapping contained in a manual of the California-based "Black Liberation Army" unearthed by the FBI during the investigation of the Hearst affair. The manual suggested two effective methods:

(1) If the ransom deadline is set for a week or less, the hostage should be buried in the ground with enough food and water to see him through. The terrorists can then either reveal his whereabouts without going near him or, if the deal falls through, they can let him starve to death.

(2) If the deadline is 24 hours, the victim should be drugged and left in the boot of a car. He can then be sprayed with armour-plated bullets from a passing car if the ransom demand is not met.

This grim advice has not so far been carried out in the United States, but that is no reason for failing to take it seriously. The primary role in fighting terrorism clearly rests with governments and their security forces. That a competent police authority can mount an effective defence over many static targets is proved by the success of the anti-hijack campaign in the United States. There were 32 hijack attempts in the United States in 1972 (half the world total): there have been only three since the start of 1973.

But an airport is a limited target; the modern city is vulnerable at many points. What the authorities can do in a reasonably ordered society (which excludes places like Argentina) is to try to establish surveillance over potential groups in the effort to forestall their actions; to make it harder for ideological mercenaries to cross frontiers through tighter airport controls; to provide a rapid follow-up to terrorist incidents; and to suggest guidelines for private companies and individuals to observe in their own defence. It is clear that much will depend on self-defence, which, for corporations, will involve some of the following things:

1. Keeping a low profile. This is particularly important for foreign subsidiaries,

which can be camouflaged under a different name (where corporate pride allows that). In trouble areas visiting executives will have to learn to be more discreet about photographs in the press, the use of brightly painted company planes, and so on. Locally based executives may have to adopt less conspicuous life styles and, in particular, less obvious cars. More could also be done to screen the identity of employees of foreign corporations in a country such as Argentina, where local agents (including lawyers) are made to register on a list that may be publicly consulted.

But it is not hard for would-be kidnappers to get background data on their targets. Many of the most popular terrorist reference-books in America are available in university and public libraries. They include The Social Register, Who's Who, specific business directories (which often contain the home addresses and family biographies of executives), and magazines such as Fortune and Business Week. Scrapbooks of clippings from these magazines, with annotations on the daily routine of potential targets, were found by the FBI in a Symbionese Liberation Army hideout. There is probably little that can be done about such sources.

2. Improving security, especially at home and in transit. The sale of sophisticated security equipment and the hire of private guards and consultants are becoming a fairly big business. The readiness of company executives to use such methods will depend on their willingness to live in a virtual state of siege. Security on the way to the office and in the home has been fairly generally neglected in the past. But it is now accepted that senior executives tend to be most vulnerable during the drive to and from the office. It is now standard practice in high-risk areas such as Buenos Aires for senior executives to use bodyguards and bulletproof glass in their cars and to vary their routes to work. An increasing number have taken to using a bleeper device—worn in the form of a belt buckle, for instance—which with luck and speed might enable the police or the company security men to track them if they are kidnapped.

Homes can today be built like electronic fortresses if a company is prepared to put up with the price and bother: there are whole catalogues of intruder alarm systems, electronic fences, night lighting and personal mail screening devices. A sensible principle, adopted by one of the leading American security firms, is that the basic aim in the home should be to create a safe haven—a small room or closet reinforced in such a way that a potential kidnap victim could take refuge there for 10–15 minutes, allowing time for an alarm call to be followed up.

3. Emergency action plans. Any corporation (or any government) running the risk of political blackmail should have worked out the tactics to be adopted in advance. In kidnapping, this involves a prior decision about whether ransom should be paid at all. There is little doubt about most companies' answer to that: private executives working for a salary seldom accept the sterner ethics of diplomats in the service of a government that has made it plain that it will not give in to blackmail. Governments can resolve the dilemma by forbidding the payment of ransom, but that would be an agonising law to have to enforce, and it would begin to be acceptable only if the police in the country in question were effective in catching kidnappers.

One problem for companies faced with kidnap or extortion demands will be to determine whether the threat is genuine. Acts of violence attract hoaxers and bluffers as well as imitators; the most spectacular bluff that paid off recently involved a fictitious bomb on a Qantas airliner in Australia. Some quite simple tests can often determine the authenticity of a threat. For kidnapping, executives' fingerprints and voice recordings as well as their handwriting could be compared with material kept on file.

Corporate planners have to work out who will do what in a kidnapping. Who has authority to negotiate? How can he determine the scope for bargaining? (Word-codes agreed on in advance with senior executives may help to discover something about the kidnapped man's situation.) At what stage should the police be consulted? (The answer is automatically, in most western societies, but it may differ in situations where terrorism has got entirely out of control.)

4. Insurance against terrorism. Insurance against kidnapping is not, as some people have argued, an inducement to political crime—although it would be if details about who was insured were allowed to leak out. The Lloyds brokers are by far the largest suppliers of political risk insurance, which is by no means always profitable: $35m was lost in a single day when the Palestinians blew up those planes at Dawson's Field in 1970. Lloyds sensibly impose the restriction that ransom money cannot be paid before the appropriate law enforcement agency has been informed, although this can be deleted in certain areas. This may reduce the risk that insurance against kidnapping increases the tendency to meet ransom demands.

The odds are that both the techniques and the sources of political terrorism will continue to multiply in the rest of the 1970s. There will be an increasing tendency for terrorists who have failed in their own countries to seek easier targets abroad. Some of the exiled Latin American revolutionaries who have come together in Mexico City and Buenos Aires may be among the first to move along these lines. Equally disturbing is the rise of would-be guerrilla groups among minority communities in western Europe. The activities of such groups constitute one of the everyday hazards that companies, as well as governments, must now take into account.