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QUESTION OF THE PROTECTION AND INVIOABILITY OF DIPLOMATIC
AGENTS AND OTHER PERSONS ENTITLED TO SPECIAL PROTECTION
UNDER INTERNATIONAL LAW

Report of the Working Group

Draft articles on the prevention and punishment of
crimes against diplomatic agents and other inter-
nationally protected persons



Article 1

For the purposes of the present articles:

1. "Internationally protected person" means:
 - a) a Head of State and a Head of Government, whenever he is in a foreign State, as well as members of his family who accompany him;
 - b) any official of either a foreign government or an international organization [of universal character] whenever he is in a State for or because of the performance of official functions on behalf of his Government or international organization and who is entitled to special protection by that State, pursuant to general international law or an international agreement, as well as members of his family forming part of his household, or as the case may be, who accompany him.

2. "Alleged offender" means a person as to whom there are grounds to believe that he has committed one or more of the crimes set forth in article 2.

Article 2

The commission, regardless of motive, of:

- a) a violent attack upon the person or liberty of an internationally protected person,

- b) a violent attack upon the official premises or the private accommodation of an internationally protected person likely to endanger his person or liberty,
- c) an attempt to commit any such attacks, and
- d) participation as an accomplice in any such attacks,

shall be made by each State Party a crime under its internal law that is punishable by severe penalties which take into account the aggravated nature of the offence, whether the commission of the crime occurs within or outside of its territory.

Article 3

States Party shall co-operate in the prevention of the crimes set forth in article 2 by, in accordance with their internal law:

- a) taking measures to prevent the preparation in their respective territories of the crimes set forth in article 2 when they are to be carried out in the territory of another State;
- b) exchanging information and co-ordinating the taking of administrative measures to prevent the commission of those crimes.

Article 4

The State Party in which one or more of the crimes set forth in article 2 have been committed shall, if it has reason to believe an alleged offender has fled from its territory, communicate to all other States Party all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

Article 5

1. A State Party in whose territory the alleged offender is found shall take the appropriate measures under its internal law so as to ensure his presence for prosecution or extradition. Such measures shall be immediately notified to all other States Party.
2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled to communicate immediately with the nearest appropriate representative of the State of which he is a national and to be visited by a representative of that State.

Article 6

The State Party in whose territory the alleged offender is found 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.

Article 7

1. The crimes set forth in article 2 shall be deemed to have been included as extraditable crimes in any extradition treaty existing between Parties. Parties undertake to include those crimes as extraditable crimes in every future extradition treaty to be concluded between them.
2. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it shall consider the present draft articles as the legal basis for extradition in respect of the crimes.

Extradition shall be subject to the other conditions provided for by the law of the requested State.

3. Parties which do not make extradition conditional on the existence of a treaty shall recognize the crimes as extraditable crimes between themselves subject to the conditions provided for by the law of the requested State.

4. An extradition request from the State in which the crimes were committed shall have priority if received by the State in whose territory the alleged offender has been found within six months after the communication required under paragraph 1 of article 5 has been made.

Article 8

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

Article 9

There shall be no statutory limitation as to the time within which prosecution may be instituted for the crimes set forth in article 2.

Article 10

1. States Party shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes, in particular by supplying all evidence at their disposal necessary for the prosecution.

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

Article 11

The final outcome of the judicial proceedings regarding the alleged offender shall be communicated by the State where the proceedings are conducted to the Secretary-General of the United Nations, who shall transmit the information to the other States Party.

Article 12

1. Any dispute between the Parties arising out of the application or interpretation of the present articles that is not settled through negotiation may be brought by any State party to the dispute before a conciliation commission to be constituted in accordance with the provisions of this article by the giving of written notice to the other State or States party to the dispute and to the Secretary-General of the United Nations.
2. A conciliation commission will be composed of three members. One member shall be appointed by each party to the dispute. If there is more than one party on either side of the dispute they shall jointly appoint a member of the conciliation commission. These two appointments shall be made within two months of the written notice referred to in paragraph 1. The third member, the Chairman, shall be chosen by the other two members.
3. If either side has failed to appoint its member within the time-limit referred to in paragraph 2, the Secretary-General shall appoint such member within a further period of two months. If no agreement is reached on the choice of the Chairman within five months of the written notice referred to in paragraph 1, the Secretary-General shall

within the further period of one month appoint as the Chairman a qualified jurist who is not a national of any State party to the dispute.

4. Any vacancy shall be filled in the same manner as the original appointment was made.

5. The commission shall establish its own rules of procedure and shall reach its decisions and recommendations by a majority vote. It shall be competent to ask any organ that is authorized by or in accordance with the Charter of the United Nations to request an advisory opinion from the International Court of Justice to make such a request regarding the interpretation or application of the present Convention.

6. If the commission is unable to obtain an agreement among the parties on a settlement of the dispute within six months of its initial meeting, it shall prepare as soon as possible a report of its proceedings and transmit it to the parties and to the depositary. The report shall include the commission's conclusions upon the facts and questions of law and the recommendations it has submitted to the parties in order to facilitate a settlement of the dispute. The six months time-limit may be extended by decision of the Commission.

7. This article is without prejudice to provisions concerning the settlement of disputes contained in international agreements in of force between States.