

ican, which were ready to go quite far in order to achieve a convention, thought that half a loaf was better than none. It also appeared that the other regional groups, while ill at ease with the asylum amendment, were not ready to oppose the Latin Americans on the floor of the committee.

Complicated and delicate negotiations took place. Eventually, the Latin Americans agreed to modify the text of their original amendment so that the Asylum Treaties referred to would only be those in force at the date of the convention, so as to prevent other groups from hastily adopting similar treaties. They also agreed that the treaties could not be invoked against countries that were not parties to them. Article 12 of the convention reflects these changes.

While the asylum clause still represents a loophole as between the Latin Americans (and, if they wish it that way, after all it is their own business), if the perpetrator of a crime against a Canadian diplomat in a Latin American country were granted asylum by another Latin American country, that country could not refuse extradition of the alleged offender to Canada on the basis of the asylum treaties. Consequently, the accused could not, in spite of the asylum clause, escape justice.

Self-determination

A last-minute African self-determination amendment almost prevented adoption of the convention. At a time when the informal negotiations on the asylum proposal had borne fruit, and a few minutes before the expiration of the deadline that had been set for tabling amendments, the representative of Mali announced in the Legal Committee that he had just tabled, on behalf of the African group, the text of a new article on self-determination. That text, co-sponsored by some 40 delegations, read as follows: "No provision of these articles shall be applicable to peoples struggling against colonialism, foreign occupation, racial discrimination and apartheid in the exercise of their legitimate rights to self-determination and independence".

This is one of the usual self-determination clauses, which are increasingly appearing in international conventions. But this time the context was different — we were actually dealing with the universally-recognized rule of diplomatic inviolability — and the clause would have had more far-reaching consequences than usual. In the opinion of most of the non-African delegations, it would enable any assailant

of persons covered by the convention to escape the application of the convention by invoking a higher cause such as the struggle for self-determination. It could have been easily interpreted as declaring an open season on diplomats.

The chairman of the Legal Committee formed a small informal working group that sought a compromise. The first compromise proposal of the working group was that the provision on self-determination should not be included in the convention itself but instead be embodied in the covering resolution of the Assembly; that the wording of the provision should be modified so that the exercise of the legitimate rights to self-determination would be narrowed to those rights accorded by the UN Charter and the Friendly Relations Declaration; and that a new "balancing article" should be included in the convention precluding states parties from making reservations on certain of the articles considered essential to the purpose of the convention.

The compromise was referred to the Drafting Committee, and certain African delegations then insisted that, if their proposal was to be only part of the covering resolution and not included in the convention, the resolution should be published together with the convention in the United Nations treaty series. This would have been an entirely new procedure.

Since the wording of the main provision had been revised in a satisfactory manner, and since it was not part of the convention itself, the Western group agreed in a spirit of compromise to accept publication of the covering resolution in the UN treaty series with the convention, even if the proposed balancing article was not added to the convention. In return, the Western delegations insisted that, if the proposed balancing article was to be deleted, the chairman of the Legal Committee should read into the record a statement that would reflect the contention that certain articles were so fundamental to the purposes of the convention that they should not be the subject of reservations by adhering states.

On December 14, 1973, the whole package was adopted by consensus in the General Assembly, with many delegations making statements in explanation of their vote. The Canadian delegate, in clear reference to the African self-determination provision, insisted that nothing could be invoked to undermine the well-recognized principle of diplomatic inviolability.

The final result is obviously not a perfect convention. When a text is negoti-

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