



INTERNATIONAL CONFERENCE ON
THE SUPPRESSION OF UNLAWFUL
ACTS AGAINST THE SAFETY OF
MARITIME NAVIGATION -

IMO

Rome, 1-10 March 1988

PLENARY

Record of Decisions of the first meeting held at 11.30 a.m. on
1 March 1988

Opening of the Conference

The Conference was formally opened at 11.15 a.m. on Tuesday, 1 March 1988 by the Secretary-General of the International Maritime Organization (Mr. C.P. Srivastava).

Mr. Srivastava made a statement which is reproduced in Annex 1 to this document.

Hon. Prof. Giuliano Vassalli, the Minister of Justice of Italy, made a statement to the Conference, the text of which is reproduced in Annex 2 to this document.

Mr. Satya N. Nandan, Under-Secretary-General, Special Representative of the Secretary-General of the United Nations on the Law of the Sea, made a statement, the text of which is reproduced in Annex 3 to this document.

Election of the President

The Conference decided by acclamation to elect Professor L. Ferrari-Bravo (Italy) as President of the Conference.

Professor Ferrari-Bravo made a statement to the Conference, the text of which is reproduced in Annex 4 to this document.

Agenda item 1: Adoption of the Agenda

The Conference adopted the Agenda contained in document SUA/CONF/1/1.

The Conference received a report from the Secretary-General on the consultations which had been held by the Heads of Delegations.

Agenda item 2: Adoption of the Rules of Procedure

The Conference decided to approve the Rules of Procedure, with the modifications which had been recommended by the Heads of Delegations in respect of rules 4, 6, 9, 16, 45, 48 and 54 with consequential amendments to rules 13(c), 34 and 55.

The Rules of Procedure approved by the Conference are reproduced in document SUA/CONF/2/1.

ANNEX 1INTERNATIONAL CONFERENCE ON THE SUPPRESSION OF UNLAWFUL ACTS
AGAINST THE SAFETY OF MARITIME NAVIGATIONOpening statement by Mr. C.P. Srivastava, Secretary-General
of the International Maritime OrganizationRome, 1 March 1988

Your Excellencies, Distinguished Delegates, I wish, on behalf of the International Maritime Organization, to welcome you all to this diplomatic conference which has been convened to deal with one of the most important contemporary issues of the world maritime community, namely the problem posed by unlawful acts against the safety of maritime navigation.

First and foremost, I want to convey to the Government of Italy the profound gratitude of the International Maritime Organization and of all its 131 Member States for their magnificent generosity in hosting this Conference and for the excellence of all arrangements to facilitate our work. In particular I want to express my deepest gratitude and admiration to the distinguished leader of the Italian Delegation, Professor Ferrari Bravo for the immense personal contribution he has made in ever so many ways. From the very beginning of our endeavours he has provided admirable support and visionary leadership. If we are here today, it is so largely because of exceptional abilities and his total commitment to the objectives of the Conference.

I would like also to say how greatly honoured we are by the distinguished presence here today of His Excellency the Minister of Justice of the Government of Italy. Despite his heavy pre-occupations His Excellency the Minister has found it possible to be here with us and to address the Conference. This is yet another indication of the powerful support of the Government of Italy for which I re-iterate our deepest appreciation.

We are also most fortunate in being in the eternal city of Rome. It has its beauty and its historic monuments. It has been a law giver to the world and has contributed enormously to the creation and development of law.

The decision to prepare an international treaty instrument on this subject was taken by the Council of IMO at its fifty-seventh session, in response to a joint proposal from the Governments of Austria, Egypt and Italy. These three Governments requested IMO to undertake work to promote the adoption of an international convention to deal with the problem which they described as being of "increasing concern to the entire maritime community". The Council considered this matter most expeditiously and accepted the proposal unanimously, thereby underlining the importance and urgency of the subject-matter. The Council decided further to establish a special Ad Hoc Preparatory Committee to consider and prepare a suitable draft convention, on the basis of top priority.

In this connection, I wish to take the opportunity to reiterate once again, as Secretary-General of IMO, my profound gratitude to the three co-sponsoring Governments for deciding to bring this very serious and highly topical issue to IMO for consideration and action. I consider their decision to come to IMO with the proposal as a reflection of their belief that IMO would be both willing and able to deal with it satisfactorily. Furthermore, by submitting a very well-prepared draft of the proposed convention, and supplementing it with a comprehensive Explanatory Note, the co-sponsoring Governments helped greatly to facilitate the work of the Ad Hoc Preparatory Committee and, ultimately, this Conference itself.

The submission of the question to IMO was also a further demonstration of the support which IMO enjoys from the co-sponsoring Governments, as well as the other Member Governments of the Organization. In order to ensure that the requisite priority would be given to the work on the subject, the Council agreed to make special provision for the meetings of the Ad Hoc Preparatory Committee. This was done, inter alia, by re-organizing the meeting resources of other IMO Bodies. The Council also accepted the very kind offer of the Government of Italy to host a second session of the Ad Hoc Preparatory Committee, if necessary. This session was held in Rome in May 1987, and the Committee was able to conclude its work at that session. In this context, I wish to recall that the Council and Assembly of the Organization have recorded sincere appreciation for this very kind and co-operative gesture by the authorities of the Italian Government. The intergovernmental bodies have also expressed their profound gratitude to the Government both for its kind invitation to hold this Conference in Rome, and for the extremely generous facilities which it has placed at the disposal of IMO and the Conference. I wish to avail myself of this opportunity to place on record my thanks to the Government, and to the various authorities and officials who have been involved in making the arrangements for hosting this Conference in this beautiful and ancient city. In particular, I wish to express sincere appreciation for the unfailing co-operation which the Secretariat has received from all concerned, and for the innumerable acts of kindness and courtesy which have been extended to me personally by so many high officials of the Government of Italy, in particular by the distinguished leader of the Italian Delegation, Professor Ferrari-Bravo.

I wish also to reiterate how much we have appreciated the ready and willing co-operation which we have received from our sister agency, the Food and Agriculture Organization of the United Nations, in connection with the holding of this Conference. In this context, I recall the hospitality which the FAO and its distinguished Director-General, my friend and colleague, Mr Edouard Saouma extended to us for the second session of the Preparatory Committee in May 1987. Their readiness to receive us again so soon and to accommodate this Conference is further evidence of their generosity. On behalf of IMO, I wish to express my most sincere thanks for this assistance and co-operation.

Your Excellencies, Distinguished Delegates, the problem posed by unlawful acts against ships and persons on board ships has attracted justifiable international concern in recent years. As the foremost global body engaged in the international regulation of maritime transport, the International Maritime Organization has naturally shared the concern of the international maritime community. In recognition of its position as the United Nations agency concerned with the safety of maritime navigation, IMO has accepted that it has an essential role in combating this growing menace. Accordingly, the Organization has taken the necessary steps, whenever it has been possible or appropriate to do so, to promote and co-ordinate practical measures for preventing, reducing or controlling any activities which threaten safe and efficient navigation and the operation of ships, or which endanger the safety and comfort of persons on board ships. In short, IMO considers as one of its inescapable responsibilities the maintenance and enhancement of the security and integrity of maritime transport, to ensure the success of world trade and commerce.

As far back as the eleventh regular session in 1979, the Assembly adopted a resolution calling for measures to prevent and control "Barratry and other unlawful seizure of ships and their cargoes". Pursuant to that resolution the Organization collaborated closely with the International Chamber of Shipping to examine possible ways of assisting Governments and interested organizations in taking appropriate measures for dealing with the problem. The results of that examination were embodied in "Recommendations on the Prevention and Suppression of Unlawful Seizures of Ships and thier Cargoes and other Forms of Maritime Fraud". These were adopted by the Assembly at its twelfth session in November 1983, in resolution A.504(XII), and circulated to Governments and interested orgaizations and bodies.

Since 1983 IMO has retained a keen interest in international efforts for preventing all acts which adversely affect the successful and efficient operation of ships and the transportation of cargoes and persons by ships. In 1985, the Assembly requested the Maritime Safety Committee to consider practical measures which might be undertaken, in areas within the competence and field of interest of IMO, to prevent or control attacks against ships and ship-borne personnel and cargoes. The need and appropriateness of action by IMO in this field were given full endorsement by the General Assembly of the United Nations when it adopted its resolution 40/61 of 9 December 1985. In that resolution the General Assembly invited IMO to study the problem of attacks aboard or against ships "with a view to making recommendations on appropriate measures". Thus when the Maritime Safety Committee commenced its work, it was aware that it was responding, not only to the request of the IMO Assembly but also to the solemn invitation of the highest intergovernmental body of the United Nations system.

With the usual constructive co-operation of the Member Governments, and the contribution of the organizations associated with IMO, the Maritime Safety Committee was able to develop a set of measures which have been generally commended as being realistic as well as relevant to the problem from the point of view of IMO. These measures have been approved by the Assembly and have been recommended to Governments to assist them in the task of making shipping safer both at sea and in ports.

The agreement of the Council to the proposal to develop a new international treaty on unlawful acts against maritime navigation represents a further step in the long series of measures undertaken by IMO to increase safety in the movement of ships and the persons and goods transported in them. The treaty instruments before this Conference are intended to reinforce and supplement the continuing efforts of IMO, as the international body responsible for safety of life at sea, to make shipping efficient and safe globally. They will also constitute an important part of the response of IMO to the invitation from the General Assembly of the United Nations.

On the basis of the very useful proposals submitted by the three co-sponsoring Governments and the detailed comments and suggestions which were made by other Governments and interested organizations, the Ad Hoc Preparatory Committee prepared the two draft treaty texts: a draft convention on the suppression of unlawful acts against the safety of maritime navigation and a supplementary draft protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf. I wish to express profound gratitude to the Preparatory Committee for its excellent work and to the Chairman of the Committee, Mr. Kirsch, the distinguished representative of Canada, for his outstanding and brilliant leadership of the Committee. At the request of the Council,

the Legal Committee of the Organization has examined the draft convention and the draft protocol, and has made a number of comments and suggestions on these texts. The Legal Committee's comments and observations are now before you. Also before you are various comments and proposals which have been submitted by Governments and international organizations.

Distinguished Delegates, the treaty instruments which you are to consider at this Conference are very important and extremely topical at the present time. I am fully aware that they deal with highly complex and delicate principles of international law and national policies. But I also know, from the discussions so far in the Council and in the Preparatory Committee and the Legal Committee, that all Member Governments are in favour of the adoption and early implementation of international treaties on this important subject. In addition, there is general agreement that the work of the Preparatory Committee has produced well-prepared texts which can form the basis for viable international instruments which will command the widest possible measure of acceptance. It is therefore my hope that you will be able to conclude your work with the adoption of a convention and a protocol which will not only be supported by general consensus, but will be accepted and applied world-wide.

Distinguished Delegates, you have an enormous responsibility. The eyes of the maritime world are focussed on this Conference. The time available is relatively short. But I know that you have a tremendous and an unfailing asset, that glorious and unparalleled spirit of mutual goodwill and co-operation, the IMO spirit for which all our Member States are renowned globally. With this goodwill, with this brilliant galaxy of expertise and with a pragmatic approach, your efforts will surely be crowned with success. Most respectfully I invite you to undertake and accomplish this noble task.

The services and facilities of the Secretariat will be entirely at your disposal. It will be a great honour and privilege for me, and for the other members of the IMO Secretariat here in Rome, to give you all the support and assistance you may need in discharging your heavy responsibilities at this Conference.

Your Excellencies and Distinguished Delegates, I am most honoured now to declare open the diplomatic Conference on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. I am exceedingly pleased to welcome you to this great and ancient city of Rome and to the headquarters of our sister agency, the FAO. I hope that you will have a pleasant stay in Rome and that your deliberations will be crowned with complete success.

Before concluding I wish to re-iterate the deepest gratitude of the International Maritime Organization to the Government of Italy for their magnificent hospitality and the excellent arrangements for this Conference. I now invite The Honourable Minister of Justice of the Government of Italy to address this Conference.

Thank you.

ANNEX 2

Statement by the Minister of Justice, Hon. prof. Giuliano Vassalli,
at the opening of the IMO (International Maritime Organization)
Diplomatic Conference on the Suppression of Unlawful Acts
Against the Safety of Maritime Navigation
(Rome, FAO Headquarters, 1 March 1988)

Mr. Secretary-General, distinguished Delegates, I am very glad to have been invited here to open this Diplomatic Conference, convened - at the invitation of the Government of Italy - in Rome by the International Maritime Organization, in order to work out a Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as well as a Protocol on the Safety of Fixed Platforms on the continental shelf.

As is well known, the present negotiations stem from Resolution N.40/61 of the Assembly General of the United Nations on terrorism.

Upon an initiative undertaken by Austria and Italy, a paragraph on unlawful acts against the safety of maritime navigation was added to this Resolution, requesting IMO to study the matter.

On this basis, the two afore-mentioned Countries, together with Egypt, jointly submitted to IMO competent organs a draft Convention, which was adopted as a basis for discussion.

The preliminary meetings were held during two sessions of the Ad Hoc Preparatory Committee, specifically set up for the present negotiations, which led to the working out of two drafts of international acts (a Convention and a Protocol) which are now being submitted to the Conference for consideration.

Before the Second World War, the international community had already begun to work out agreements concerning prevention and suppression of terrorism. However, terrorism nowadays is far different, as opposed to fifty years ago, especially as regards its dimensions. It was in the Seventies that this criminal phenomenon took on the alarming aspect, so fraught with peril for the safety of human life throughout the world, that it still has nowadays.

And it was right in those years that measures to combat terrorism were multiplied, both at international and regional level; furthermore, important actions were taken at national level, such as, for instance - as regards our present subject - the legislation enacted by Italy and by other Countries, containing more modern and adequate criminal provisions in respect of the safety of civil aviation.

In this framework, international organizations have played and are still playing a central role. Such organizations (I'm referring primarily to the United Nations and to the organizations linked to them, such as ICAO, but also, - as regards Western Europe, - to the Council of Europe and to the European Communities) are the pole of aggregation of the human, intellectual and financial resources that the States have destined to the fight against terrorism.

The results of these efforts can be roughly inserted in two categories: the first one comprises instruments such as recommendations. They are very important for the decision-making process on the part of the States - although they are not legally binding - since they indicate uniform standards of behaviour.

The second category consists of the actual conventional rules originating legally binding obligations for States.

The progress reached at both levels by the international community has not been and is still not an easy task. Indeed, on the one hand there is an almost total convergence of opinions on the inadmissibility of certain unlawful acts of violence, which endanger fundamental human rights, and consequently on the need to suppress such acts also through international cooperation. On the other hand, opinions diverge when it comes to fixing the limits of such cooperation vis-à-vis to forms of violence stemming from ideological causes which cannot be condemned. It is also for this reason that there is still no international definition of terrorism, which is our subject on the agenda today.

To my opinion, international measures in this field must aim at ~~two objectives~~: at combating unlawful acts of violence, on the one hand, and, on the other, at studying the causes underlying terrorism, with a view to taking appropriate measures in order to prevent and control this phenomenon. This is, after all, the stand taken by the General Assembly of the United Nations with its two most recent Resolutions adopted in this field: Resolution N.40/61 of 1985 and Resolution N.42/159 of 1987, constituting the programmatic documents on this particular matter, since they voice the common beliefs of the States. Therefore, the approach to be followed remains the singling out juridical assets which must be safeguarded, and taking measures in each single sector, of course in a consistent picture. The international conventional movement, having put aside the idea of defining terrorism, has singled out the assets that mostly need to be protected, in the light of their importance in international life, and has subsequently worked out international conventions.

Such conventions, in order to favour the prosecution of the offenders who have committed unlawful acts against these assets, affect the domestic legal systems of the States who have acceded thereto, both in criminal and trial proceedings. In this framework, the first measures were adopted by ICAO (International Civil Aviation Organization), owing to the particular vulnerability of this sector. The first great Convention on the protection of civil aviation from unlawful acts of violence was held in Tokyo in 1963 under the auspices of ICAO; it was followed by two Conventions, respectively in The Hague in 1970 and in Montreal in 1971.

Apart from the field of civil aviation, one of the assets that particularly needs protection is, for instance, the safety of the persons who are professionally concerned with diplomatic and consular relations among States. In relation to such persons, the United Nations adopted a Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (New York, December 14, 1973);

a further sector taken into consideration was terrorism linked to the ~~taking of~~ hostages. In this regard, an additional ad hoc Convention was adopted by the United Nations in 1979 upon an initiative of the Federal Republic of Germany, following upon the facts which marred the Munich Olympic Games in 1972.

In relation to this set of regulations, we must bear in mind the latest Protocol, which was opened for signature in Montreal a few days ago, on February 24 last, on the protection of airports serving international civil aviation. Such Protocol completes the series of the agreements relative to civil aviation.

The technique followed in these Conventions (definition of the offences which may cause damage to or endanger the asset in question, individuation of some States which, being involved in the offence on account of certain elements, have the obligation to establish their jurisdiction; obligation for all Parties to consider the offence taken into consideration "an offence of a grave nature"; obligation for the State where the offender has taken refuge to extradite such person to one of the States which have established their jurisdiction or, in alternative, to prosecute such person before its courts) aims at preventing the creation of "free zones" for the perpetrators of the offences taken into account.

Therefore, it is quite evident that these instruments are all the more practical and useful in combating terrorism, if they are widely supported. The flexibility of the main obligation undertaken in these agreements (aut dedere aut judicare), since it does not imply a binding obligation to extradite, is maybe the key of the success of these Conventions.

The problems this Conference is ~~about to address~~ will be studied in the wake of the above mentioned Conventions. Of course, the particular character of the maritime sector will entail - for the Conference - the need to take into consideration specific matters, but the existence of already tried and tested patterns should facilitate its task. Indeed, I believe that compliance with existing models - which nevertheless might entail the

risk of imperfections - is the best guarantee of acceptability - and therefore of practicality and usefulness, as I was saying before - of the new instruments that the Convention will create.

Maritime navigation needs international regulations. We were abruptly faced with the deficiency existing in this field at the time of the dramatic episode of the seizure of the Italian ship "Achille Lauro", which took place in the eastern Mediterranean in October 1985. The existing rules on sea piracy, in fact (I am referring to Art.101 of the Convention of the United Nations on the Law of the Sea of 1982, and to the corresponding Art.15 of the Geneva Convention of 1958 on the high seas), cover exclusively the case of a ship committing unlawful acts of violence against other ships (namely, the case must include at least two ships) for depredation purposes or, anyway, for non political aims; therefore, they cannot evidently regulate cases such as the ones at issue here.

The pressing need for a new legislation leads me to extend to you, distinguished Delegates, the hearty wish expressed by the Italian Government and by myself in my personal capacity: the wish that you will carry out a fruitful work which - I am quite positive of that - will take into account not only the legitimate need for safety of the international society, but also the full protection of human rights, in every moment and in every field.

Thank you, Mr. Chairman.

ANNEX 3

STATEMENT

BY

SATYA N. NANDAN

UNDER-SECRETARY-GENERAL

SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL

OF THE UNITED NATIONS FOR THE LAW OF THE SEA

OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

International Conference on
the Suppression of Unlawful
Acts Against the Safety of
Maritime Navigation

Rome, Italy
1 March 1988

Mr. President, the distinguished Secretary-General of the International Maritime Organization, distinguished delegates --

The ACHILLE LAURO incident captured the attention of the world not only because of its drama and tragedy but also because it revealed that terrorism had become a threat to international navigation thus jeopardising peace and order in the oceans. The incident underscored the fact that there was an important lacuna in the international law of the sea and that the time had come for the international community to address itself to it.

In his report to the 40th session of the General Assembly, the Secretary-General of the United Nations stated inter alia

"Acts of terrorism have now spread to virtually all parts of the globe..... The most tragic aspect of this problem is the increasing loss of innocent civilian lives, which I have repeatedly condemned. As indicated earlier, some of the necessary international legal instruments are in place, and it is time for concerted efforts to be made by Governments to implement them. In this context, Governments may wish to consider what further measures of international co-operation could be effectively devised."

One of the consequences of the global concern over terrorism reflected in the Secretary-General's report was the adoption by the General Assembly in 1985 of a resolution (A/RES/40/61), which inter alia, while condemning unequivocally all acts, methods and practices of terrorism wherever and by whomever committed, requested the International Maritime Organization to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures.

At its 42nd session, the General Assembly welcomed "the work undertaken by the International Maritime Organization on the problem of terrorism on board or against ships, and the initiative under way to draft instruments on the suppression of unlawful acts against the safety of maritime navigation and of fixed platforms on the continental shelf". It is this initiative of the International Maritime Organization that has led to the convening of the current Conference which is to consider and adopt a Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and a Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

The Draft Convention and the Protocol follow a series of multilateral instruments of a similar nature, adopted by the United Nations. These include the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973 and the International Convention against the Taking of Hostages, adopted at New York on 17 December 1979. Similar Conventions have also been adopted by the International Civil Aviation Organization relating to the safety of air navigation, namely the 1963 Tokyo Convention on Offences and Certain Other Acts committed on board Aircraft; the 1970 Hague

Convention for the Suppression of unlawful Seizure of Aircraft and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. More recently, based on the request of the General Assembly (A/RES/40/61), ICAO held another Conference in Montreal last month at which it adopted the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

The United Nations and its Specialized Agencies and bodies continue to play a vital role in helping member States in their attempt to find legal solutions to the problems of international terrorism which threaten friendly relations among States. The International Maritime Organization is to be congratulated for responding so quickly to the request of the General Assembly, by establishing an Ad Hoc Preparatory Committee to elaborate the Draft Convention and the Protocol. It was only a short time ago that this Committee began to prepare the drafts on this complex and sensitive issue. It has now produced texts which provide a sound basis for the deliberations of this Conference. The Conference owes its gratitude to the Governments of Austria, Egypt and Italy which submitted a draft Convention for the consideration of the Ad Hoc Committee. This initiative considerably facilitated its task. The Ad Hoc Committee was also fortunate in having an able and distinguished Chairman in Mr. Philippe Kirsch of Canada. The selection of Professor Ferrari Bravo as the President of this Conference augers well for it. His intimate and active involvement with the subject-matter at hand is known to us all and I am certain that he will guide the Conference to a successful conclusion.

In adopting the draft Convention and the draft Protocol the Conference will make a valuable contribution to the progressive development of international law of the sea as reflected in the 1982 United Nations Convention on the Law of the Sea, and in particular with regard to the law relating to safety of maritime navigation.

Customary international law on piracy, embodied in article 15 of the 1958 Geneva Convention on the High Seas and in article 101 of the 1982 UN Convention on the Law of the Sea, has the following main elements:

- 1) the illegal acts of violence, detention or any act of depredation must be committed for private ends and
- 2) the act must be directed against another ship or aircraft.

This definition does not extend to acts committed on-board a ship by the crew or passengers and directed against the ship itself, or against persons or property on the ship, nor does it extend to acts committed to public ends. The limited scope of the definition of the crime of piracy clearly did not provide a legal basis for coping with the different forms of violence that jeopardize peace and good order in the oceans in this modern age.

This gap in international law has been especially thrown into relief by the worldwide escalation of "acts of terrorism" referred to in the preamble of the draft Convention which this Conference is to consider.

I may mention in passing that there have been attempts in the past to enlarge the definition of "piracy" in international law to encompass a wider range of acts affecting safety of navigation at sea. The main examples of this have been the unratified Treaty of Washington of 1922 and the Nyon Agreement of 1937. It is worthy of note that in the latter instrument nine European countries agreed to treat attacks on neutral vessels by unidentified submarines as "acts of piracy".

The draft Convention and the Protocol would now make all acts on the high seas punishable offences and States are requested either to punish or extradite persons guilty of such offences.

There is, however, an important distinction between the crime of piracy and the offences under the draft Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol. Piracy is defined as a crime against mankind and a pirate is considered the enemy of every State. Therefore, in international law there is a universal jurisdiction, and the offender may be arrested and punished by any State. The draft Convention and the Protocol have established certain categories of States as having links with such incidents and which may exercise jurisdiction beyond the territorial sea to punish the offences specified in the two instruments.

The provisions of the two draft texts in many respects follow substantially the provisions of some of the existing multilateral instruments such as those on safety of air navigation, in particular The Hague and Montreal Conventions. Thus, in dealing with the issues before it, the Conference is not entirely in uncharted waters.

As with the preparation of all multilateral instruments, it is not always possible in a Conference to reflect the viewpoints of all the participants in every particular. It is, however, essential that the instrument reflect the basic spirit of the objectives that the international community set out to achieve. In this respect, the drafts before the Conference provide a sound basis for your deliberations.

May I, on behalf of the Secretary-General of the United Nations, wish the Conference every success in its undertaking. May I also take this opportunity to thank the Government and the people of Italy for the generous and warm hospitality that they have offered to us all in this beautiful eternal city of Rome.

ANNEX 4STATEMENT BY THE PRESIDENT, PROFESSOR L. FERRARI BRAVO

Mr. Secretary-General, Delegates: It is for me a great honour to have been elected President of this important Conference. I wish to convey my profound gratitude concerning your choice which I consider not so much as a choice conferred on my modest self but rather as a token of appreciation for the ceaseless efforts of the Government of my country to achieve the juridical regulation of acts of violence directed against maritime navigation.

In these efforts, which have hitherto received the assent of the entire international community, the action of the Italian Government has been conducted in permanent contact with that of the Governments of Austria and Egypt which have shared with us the arduous task of promoting the diplomatic initiative which culminates today in the opening of the present diplomatic Conference.

For that action we have always been able to count on the support of the International Maritime Organization under the auspices of which today's Conference is being held. IMO is led by its Secretary-General, Mr. Srivastava, to whom I should like to express particular thanks, also on behalf of the Italian Government, for everything he has already done and what he further intends to do to ensure the success of our Conference.

I have no hesitation in saying that Mr. Srivastava is the personification of the IMO spirit, perceptive, likeable, firm and devoted as he is to the cause of the Organization. On behalf of all of the delegates here present I extend most cordial welcome to the Secretary-General in the certainty that in the coming days we shall be able to count on his powerful support.

Delegates, the task which awaits us is an import one. It is that of filling a legal gap which has been highlighted by tragic events in one of the crucial sectors of international relations. Two excellent documents which are the fruit of a collective effort are before us and constitute the basis of our negotiations. They have already been the subject, in the Ad Hoc Preparatory Committee so admirably chaired by Mr. Kirsch, of careful consideration: they

have obtained the political approval of the IMO Council and have been meticulously scrutinized by the Legal Committee of the Organization without arousing major reservations or objections. Thus we can say that we are working on a solid basis, the more so since the draft Convention and draft Protocol which are submitted for your attention are modelled on precedents well known to the international community, precedents which have received the positive assent of of a very large number of States.

For this reason, Delegates, I am certain that the Conference which is opening today will, by dint of intensive work, reach a successful conclusion. To that end we must above all seek to avoid misusing our time in sterile discussions or, at any rate, in discussions that are more appropriate to other forums. Furthermore, in preparing to discuss all the proposals submitted in writing hitherto, as well as those which will subsequently be submitted with a view to improving the two texts, it seems to me appropriate to recall here the old saying that "the best is the enemy of the good". Any text is capable of improvement and this certainly also applies to the drafts which are before us. But one thing we should keep clearly in mind is that we must, within the allotted time span, attain the result which the international community expects of us. Nothing would be more dangerous than, by striving for perfectionism, to let slip the precious and auspicious occasion now offered to us in which our activity is endorsed by the entire international community.

Our work is firmly supported by the United Nations: in addition to the cordial message of encouragement which reached us, and which gives us such pleasure, from the Secretary-General of the United Nations, I should like to recall here General Assembly resolutions 40/61 and 41/159 which express, at the highest level, the interest of the entire international community in the success of our Conference.

It is thus necessary to act quickly and in a spirit of maximum co-operation and moderation, given that the exclusive purpose of the task which awaits us is the concern of the entire human race for the establishment of effective legal measures to counter particularly dangerous acts of violence.

I am certain that the unanimous condemnation of terrorism by all the delegations present will constitute a solid basis for agreement on which we shall

be able to build a consensus with regard to every aspect of the instruments submitted for our consideration.

My most earnest wish is that the general desire to reach a balanced agreement may prove to be the key to resolving the most controversial problems: a constructive and flexible attitude of mind which is ready, if need be, to set aside those national preferences which are not imperative conditions in the interest of achieving a text which is capable of obtaining the widest possible endorsement among States. For indeed, the scale of the consent which our work receives will be a true measure of its success.

Our activities do not have - and must never have - any hostile intent with regard to one country or another or in relation to any legitimate cause espoused by the peoples of the world. On the contrary, our purpose is to work for the interests of all States and all peoples, and to hold them in profound respect.

Delegates, I hope that you will henceforward consider me as being at your entire disposal and I ask you to believe that I shall spare no effort to guide this initiative towards the success it deserves. In order to achieve that outcome I count on the help of all of you.

Thank you.
