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REPORT OF THE AD HOC COMMITTEE ON THE DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES

Report of the Sixth Committee

Rapporteur: Mr. José María CASTROVIEJO (Spain)

I. INTRODUCTION

1. The item entitled "Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries" was included in the provisional agenda of the forty-first session of the General Assembly pursuant to paragraph 9 of Assembly resolution 40/74 of 11 December 1985.
2. At its 3rd plenary meeting, on 20 September 1986, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the following documents:
 - (a) Letters dated 17 December 1985, 10 January, 4 and 14 February, 13, 17 and 21 March, 1, 3, 8, 16, 22 and 24 April, 8 and 19 May, 5 and 26 June, 8, 25 and 30 July, 18 and 25 August, 2, 18 and 26 September, 8, 14, 28 and 31 October, 5, 12 and 24 November 1986, from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General (A/41/57-S/17690, A/41/89-S/17737, A/41/134-S/17789, A/41/165-S/17832, A/41/217-S/17920, A/41/221-S/17924, A/41/227-S/17933, A/41/258-S/17962, A/41/263-S/17970, A/41/284-S/17995, A/41/300-S/18017, A/41/309-S/18029, A/41/312-S/18038, A/41/331-S/18054, A/41/347-S/18068, A/41/400-S/18137, A/41/436-S/18186, A/41/451-S/18213, A/41/487-S/18242, A/41/497-S/18255, A/41/524-S/18286, A/41/540-S/18294, A/41/575-S/18311, A/41/625-S/18351, A/41/659-S/18369, A/41/693-S/18388,

A/41/718-S/18408, A/41/774-S/18433, A/41/789-S/18443, A/41/804-S/18449, A/41/831-S/18458 and A/41/885-S/18479).

(b) Letters dated 31 December 1985, 3, 7 and 14 January, 4, 12 and 13 February, 10, 12 and 27 March, 4, 10, 11, 21 and 23 April, 5, 12 and 21 May, 3 and 25 June, 2, 8 and 28 July, 2, 8 and 29 September, 6, 14, 27 and 29 October and 4 November 1986, from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General (A/41/70-S/17708, A/41/76-S/17716, A/41/79-S/17722, A/41/90-S/17738, A/41/133-S/17786, A/41/160-S/17820, A/41/162-S/17825, A/41/205-S/17905, A/41/211-S/17912, A/41/239-S/17953, A/41/267-S/17973, A/41/281-S/17988, A/41/282, A/41/307-S/18027, A/41/311-S/18034, A/41/321-S/18045 and Corr.1, A/41/336-S/18059, A/41/357-S/18078, A/41/390-S/18125, A/41/429-S/18183, A/41/442-S/18200, A/41/446-S/18207, A/41/488-S/18245 and Corr.1, A/41/489-S/18247, A/41/574-S/18310, A/41/589-S/18329, A/41/590-S/18330, A/41/657-S/18367, A/41/684-S/18385, A/41/711-S/18402, A/41/767-S/18426, A/41/773-S/18432 and A/41/796-S/18447).

(c) Letter dated 21 January from the Permanent Representative of China to the United Nations addressed to the Secretary-General (A/41/95-S/17751).

(d) Letter dated 9 June 1986 from the Chargé d'affaires a.i. of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General (A/41/405-S/18142).

(e) Letter dated 17 June 1986 from the Permanent Representative of the Lao People's Democratic Republic to the United Nations addressed to the Secretary-General (A/41/418-S/18167).

(f) Letter dated 17 October 1986 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General (A/41/729).

(g) Letter dated 27 October from the Permanent Representative of Venezuela to the United Nations addressed to the Secretary-General (A/41/771).

4. At the 25th meeting, on 28 October 1986, the Chairman made a statement in relation to the deferment to 1987 of the session of the Ad Hoc Committee scheduled for 1986, as a result of which no report had been submitted by the Ad Hoc Committee to the General Assembly at its current session.

5. The Committee considered the item at its 25th and 26th meetings, on 28 October, and at its 46th and 47th meetings, on 17 and 18 November. The summary records of those meetings (A/C.6/41/SR.25, 26, 46 and 47) contain the views of representatives who spoke during the consideration of the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/41/L.7

6. At its 46th meeting, on 17 November, the representative of Nigeria introduced a draft resolution (A/C.6/41/L.7) on behalf of Algeria, Angola, Bangladesh, Barbados, Cuba, Egypt, Ethiopia, German Democratic Republic, Ghana, Guyana, India,

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Iraq, Jamaica, Kenya, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Madagascar, Mexico, Mongolia, Morocco, Mozambique, Nicaragua, Nigeria, Senegal, the Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, the Ukrainian Soviet Socialist Republic, Viet Nam, Yugoslavia, Zaire and Zambia, later joined by Benin, Cyprus, Mali, the Sudan, Suriname and Zimbabwe.

The draft resolution read as follows:

"The General Assembly,

"Bearing in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, enshrined in the Charter of the United Nations and developed in the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 1/

"Recalling its resolutions, particularly resolutions 2395 (XXIII) of 29 November 1968, 2465 (XXIII) of 20 December 1968, 2548 (XXIV) of 11 December 1969, 2708 (XXV) of 14 December 1970 and 3103 (XXVIII) of 12 December 1973, and its resolution 1514 (XV) of 14 December 1960, as well as Security Council resolutions 405 (1977) of 14 April 1977, 419 (1977) of 24 November 1977, 496 (1981) of 15 December 1981 and 507 (1982) of 28 May 1982, in which the United Nations denounced the practice of using mercenaries, in particular against developing countries and national liberation movements,

"Recalling in particular its resolution 40/74 of 11 December 1985, by which it decided to renew the mandate of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and to hold the sixth session of the Ad Hoc Committee for four weeks in 1986,

"Bearing in mind its decision 40/472 of 9 May 1986, as well as the report of the Secretary-General on the current financial crisis of the United Nations, 2/ on the basis of which the Ad Hoc Committee did not hold its sixth session in 1986,

"Taking into account the statement made by the Chairman of the Sixth Committee at the 25th meeting of that Committee 3/ and the views expressed by Member States on this matter during the discussion of the item at the forty-first session,

1/ Resolution 2625 (XXV), annex.

2/ A/40/1102 and Corr.2 and 3, Add.1 and Add.1/Corr.1, Add.2 and Add.2/Corr.1 and Add.3 and 4.

3/ Official Records of the General Assembly, Forty-first Session, Sixth Committee, 25th meeting.

"Recognizing that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination,

"Bearing in mind the pernicious impact that the activities of mercenaries have on international peace and security,

"Considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

"Taking account of the progress achieved by the Ad Hoc Committee at its previous sessions,

"Reaffirming the need for the elaboration, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

"1. Decides to renew the mandate of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries to enable it to continue its work on the drafting of an international convention against the recruitment, use, financing and training of mercenaries;

"2. Requests the Ad Hoc Committee, in the fulfilment of its mandate, to use the draft articles contained in section IV of its report on its fifth session, 4/ entitled 'Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries', as a basis for future negotiation on the text of the proposed international convention;

"3. Invites the Ad Hoc Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and comments expressed at the fortieth and forty-first sessions of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the Ad Hoc Committee;

"4. Decides that the Ad Hoc Committee shall hold its sixth session early in 1987, for a period of four weeks;

"5. Also decides that the Ad Hoc Committee shall accept the participation of observers of Member States, including participation in the meetings of its Working Groups;

"6. Requests the Secretary-General to provide, on a priority basis, the Ad Hoc Committee with any assistance and facilities it may require to hold its sixth session in 1987;

4/ Ibid., Fortieth Session, Supplement No. 43 (A/40/43).

"7. Requests the Ad Hoc Committee to make every effort to fulfil the mandate entrusted to it by the General Assembly and to proceed with all deliberate speed with drafting a convention;

"8. Decides to include in the provisional agenda of its forty-second session the item entitled 'Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries'."

7. At the 47th meeting, on 18 November, the representative of Nigeria orally revised the draft resolution by substituting in operative paragraph 4 the words "three weeks" for the words "four weeks".

8. The Committee had before it a statement submitted by the Secretary-General (A/C.6/41/L.9) on the programme and budget implications of draft resolution A/C.6/41/L.7.

9. At the same meeting, the Committee adopted draft resolution A/C.6/41/L.7, as orally revised, without a vote (see para. 11 below).

10. The representatives of the United Kingdom of Great Britain and Northern Ireland (on behalf of the members of the European Community), Denmark (on behalf of the Nordic countries), the United States of America, Canada and Japan made statements in explanation of position.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Bearing in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, enshrined in the Charter of the United Nations and developed in the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 5/

Recalling its resolutions, particularly resolutions 2395 (XXIII) of 29 November 1968, 2465 (XXIII) of 20 December 1968, 2548 (XXIV) of 11 December 1969, 2708 (XXV) of 14 December 1970 and 3103 (XXVIII) of 12 December 1973, and its resolution 1514 (XV) of 14 December 1960, as well as Security Council resolutions 405 (1977) of 14 April 1977, 419 (1977) of 24 November 1977, 496 (1981) of 15 December 1981 and 507 (1982) of 28 May 1982, in which the United Nations denounced the practice of using

5/ Resolution 2625 (XXV), annex.

mercenaries, in particular against developing countries and national liberation movements,

Recalling in particular its resolution 40/74 of 11 December 1985, by which it decided to renew the mandate of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and to hold the sixth session of the Ad Hoc Committee for four weeks in 1986,

Bearing in mind its decision 40/472 of 9 May 1986, as well as the report of the Secretary-General on the current financial crisis of the United Nations, 6/ on the basis of which the Ad Hoc Committee did not hold its sixth session in 1986,

Taking into account the statement made by the Chairman of the Sixth Committee at the 25th meeting of that Committee 7/ at the views expressed by Member States on this matter during the discussion of the item at the forty-first session,

Recognizing that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination,

Bearing in mind the pernicious impact that the activities of mercenaries have on international peace and security,

Considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

Taking account of the progress achieved by the Ad Hoc Committee at its previous sessions,

Reaffirming the need for the elaboration, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

1. Decides to renew the mandate of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries to enable it to continue its work on the drafting of an international convention against the recruitment, use, financing and training of mercenaries;

6/ A/40/1102 and Corr.2 and 3, Add.1 and Add.1/Corr.1, Add.2 and Add.2/Corr.1 and Add.3 and 4.

7/ Official Records of the General Assembly, Forty-first Session, Sixth Committee, 25th meeting.

2. Requests the Ad Hoc Committee, in the fulfilment of its mandate, to use the draft articles contained in section IV of its report on its fifth session, 8/ entitled "Consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries", as a basis for future negotiation on the text of the proposed international convention;
3. Invites the Ad Hoc Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and comments expressed at the fortieth and forty-first sessions of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the Ad Hoc Committee;
4. Decides that the Ad Hoc Committee shall hold its sixth session early in 1987, for a period of three weeks;
5. Also decides that the Ad Hoc Committee shall accept the participation of observers of Member States, including participation in the meetings of its Working Groups;
6. Requests the Secretary-General to provide, on a priority basis, the Ad Hoc Committee with any assistance and facilities it may require to hold its sixth session in 1987;
7. Requests the Ad Hoc Committee to make every effort to fulfil the mandate entrusted to it by the General Assembly and to proceed with all deliberate speed with drafting a convention;
8. Decides to include in the provisional agenda of its forty-second session the item entitled "Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".

8/ Ibid., Fortieth Session, Supplement No. 43 (A/40/43).