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DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT;
 USE, FINANCING AND TRAINING OF MERCENARIES

Report of the Secretary-General

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* A/35/150.

I. INTRODUCTION

1. At the 104th plenary meeting of its thirty-fourth session, on 14 December 1979, the General Assembly adopted resolution 34/140, entitled "Drafting of an international convention against activities of mercenaries", by which it decided, inter alia, to consider the drafting of an international convention to outlaw mercenarism in all its manifestations and to include in the provisional agenda of its thirty-fifth session an item entitled "Drafting of an international convention against the recruitment, use, financing and training of mercenaries".

2. Paragraph 3 of the resolution reads as follows:

"The General Assembly

...

"Invites all Member States to communicate to the Secretary-General before the thirty-fifth session of the General Assembly their views and comments on the need to elaborate urgently an international convention to prohibit the recruitment, use, financing and training of mercenaries."

3. Pursuant to that paragraph, the Secretary-General, by a note dated 29 February 1980, invited Member States to submit their views on the need to elaborate urgently an international convention to prohibit the recruitment, use, financing and training of mercenaries as well as the text of national legislation or other rules and regulations relevant to the activities to be prohibited under such a convention.

4. As of 7 August 1980, views and comments had been received from the following States: Argentina, Austria, Barbados, Belgium, Bolivia, Chile, Cuba, India, Liberia, Libyan Arab Jamahiriya, Nicaragua, Romania, Suriname, Sweden and the United Kingdom of Great Britain and Northern Ireland.

5. Any further comments and observations that may be forthcoming will be issued in addenda to the present report.

II. VIEWS AND COMMENTS OF GOVERNMENTS

ARGENTINA

/Original: Spanish/
/25 July 1980/

1. The Argentine Republic joined in the consensus on the adoption of General Assembly resolution 34/140 and also supported the relevant resolutions adopted previously in various international forums, in accordance with the principles governing the domestic legislation of the Argentine Republic.
2. The Argentine Government therefore considers that an international convention on the subject would help to eliminate a factor that unsettles relations between States and international peace and security.
3. The Argentine Government further considers that the next session of the General Assembly would be the appropriate time to adopt a resolution deciding that an international convention should be drafted. For that purpose, it would seem desirable to establish an Ad Hoc Committee to draw up the draft multilateral treaty, which would provide a basis for subsequent consideration by the General Assembly.
4. Lastly, pending the entry into force of the Convention, the Argentine Government considers that all States should be guided by the provisions of General Assembly resolution 34/140, paragraph 2.

AUSTRIA

/Original: English/
/24 July 1980/

1. Austria considers the elaboration of an international convention against activities of mercenaries as useful and believes that the repression of mercenarism deserves special attention. An international agreement on this matter could contribute to world peace and international security and Austria will therefore strongly support its elaboration.
2. As far as the legal situation in Austria is concerned, Austria as a permanently neutral country has voluntarily taken upon herself the obligation under international law to remain neutral in all wars between third countries and to avoid anything that might draw her into an international conflict.
3. This obligation to neutrality in the event of war has been taken into account in the drafting of the Austrian Penal Code (Federal Law Gazette N.60/1974).
4. Pursuant to paragraph 320 (Endangering of neutrality) anyone who "forms or maintains a force of voluntaries or opens or maintains a recruitment office for

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such a force or for the military service of one of the parties" will be subject to punishment. The granting of credit and the organization of collections for military purposes is equally prohibited under penalty. These provisions cover the cases of war or military conflict in which the Republic of Austria does not take part. There are no relevant regulations for non-crisis situations.

5. The following norms of the penal code also relate to the problem of mercenarism:

(a) Paragraph 257 (Support of enemy forces) provides that the breach by foreign residents of the loyalty owed to the Republic of Austria by Austrians is subject to punishment in times of war or armed conflict in which Austria takes part;

(b) Paragraph 279 penalizes certain activities (illegal recruitment, training etc.) in connexion with armed corporations.

6. The above-mentioned provisions of the Penal Code are annexed.

ANNEX

Extracts from the Austrian Penal Code

Endangering of neutrality

Article 320. Any person who in Austrian territory, during a war or an armed conflict in which the Republic of Austria is not involved or in the event of the imminent threat of such a war or conflict, knowingly on behalf of one of the parties:

1. Equips or arms any military unit or any ship, boat, vehicle or aircraft of one of the parties, for the purpose of participation in the hostilities;
2. Forms or maintains a force of voluntaries or opens or maintains a recruitment office for such a force or for the military service of one of the parties;
3. Exports from Austrian territory or conveys in transit through Austrian territory any military material, in contravention of existing regulations;
4. Grants any financial credit or organizes any public collection for military purposes; or
5. Transmits military intelligence or sets up or uses a transmitting station for that purpose,

shall be liable to imprisonment for a term of six months to five years.

Support of enemy forces

Article 257. (1) Any Austrian national who, during a war or an armed conflict in which the Republic of Austria is involved, enlists in the enemy forces or bears arms against the Republic of Austria shall be liable to imprisonment for a term of 1 to 10 years.

(2) Any person who, during a war or an armed conflict in which the Republic of Austria is involved or in the event of the imminent threat of such a war or armed conflict, procures any advantage for the enemy armed forces or causes any disadvantage for the Austrian Federal Army shall be liable to a like penalty. Aliens shall be punishable under this provision only if they commit the act in question while in Austrian territory.

Armed associations

Article 279. (1) Any unauthorized person who establishes an armed association or one which it is intended shall be armed or equips an existing association with arms, holds a prominent position in such an association, recruits or enlists members

for it, provides its members with military training or otherwise trains them for combat, equips the association with military material, means of transport or facilities for the transmission of intelligence or provides it with significant financial or other support shall be liable to imprisonment for a term not exceeding three years.

(2) Any person who, before the authorities (art. 151, para. 3) have learnt of his culpability, voluntarily discloses to such authorities everything known to him concerning the association and its plans at a time when such information is still secret shall not be liable to the penalty provided for in paragraph 1.

BARBADOS

/Original: English/

/12 June 1980/

1. The activities of mercenaries pose a very serious threat to the internal peace and security of States especially small developing ones. Like their ancestors the pirates of another age, mercenaries are prepared to plunder, murder and commit acts of genocide, and mercenaries have been used to change governments once the price is right. Mercenaries have also been used in the past to oppose national liberation movements of peoples struggling against colonial domination or alien occupation or racist régimes in the exercise of their right of self-determination.
2. Action by individual governments can go a long way in dealing with this new crime against the peace and security of States and peoples but only an international convention with the widest possible acceptance can prevent the activities of mercenaries. The Government of Barbados unhesitatingly supports the early elaboration of an international convention which would outlaw mercenary activity in all its manifestations.
3. Such a convention should outlaw advertisements inviting persons to join private armed expeditions, the recruitment, training, assembly, financing and transit of any group of persons whose aim is the overthrow of governments of any State. Attempts by such persons to exact ransoms from governments or high State officials by blackmail should be made a crime with a severe penalty including that reserved for acts of treason.
4. The convention should provide for the trial of offenders in the State in which they are apprehended, for their repatriation to the State of which they are nationals or for their transfer to the State in which an offence was committed. Furthermore, the convention should provide for the Secretary-General of the United Nations to receive information about the activities of mercenaries and for its dissemination to governments of all States Members of the United Nations.
5. By the enactment of the Foreign Incursions and Mercenaries Act, 1979-34 it is unlawful:
 - (a) For individuals owing any measure of allegiance to Barbados to engage in armed incursions against the government of another country; and
 - (b) To recruit mercenaries within or from Barbados.

Annex

Foreign Incursions and Mercenaries Act

1979-34

An Act to prevent the raising of mercenaries in Barbados and to prevent armed incursions into other countries by Barbadians

/...

(By Proclamation)

ENACTED by the Parliament of Barbados as follows -

Citation

1. This Act may be cited as the Foreign Incursions and Mercenaries Act, 1979.

Interpretation

2. In this Act,
 - (a) "government" in relation to any country means the government recognized by the Government of Barbados as the lawful government of that country;
 - (b) "other country" means a country other than Barbados;
 - (c) "permanent resident" means a permanent resident within the meaning of the Immigration Act;
 - (d) "recruit" includes engage, enlist, procure or train as a soldier;
 - (e) "warfare or armed conflict" includes guerilla or irregular warfare and rebellion or armed insurrection.

Statement of purpose

3. (1) The purposes of this Act are
 - (a) to make it unlawful for individuals owing any measure of allegiance to Barbados to engage in armed incursions against the government of another country, and
 - (b) to prohibit the recruiting of mercenaries within or from Barbados.
- (2) This Act shall be given such fair, large and liberal construction as will best ensure the attainment of its purposes.

Foreign incursions

4. (1) No person to whom this section applies shall
 - (a) enter any other country with intent to engage in a hostile activity against the government of that country, or

/...

(b) engage in any other country in a hostile activity against the government of that country.

(2) This section applies to an individual who,

(a) at the relevant time, is a citizen of Barbados or is a permanent resident of Barbados, or

(b) at any time during the twelve months immediately preceding the relevant time, was present in Barbados for a purpose connected with a contravention of subsection (1).

(3) Nothing in subsection (1) applies to an act done by an individual in the course of, and as part of his service

(a) in any capacity in a force described in section 8, or

(b) in any capacity in the armed forces of the government of another country to which he has been enlisted or commissioned while ordinarily resident in that other country.

(4) An individual engages in a hostile activity against the government of another country when he participates in or does any act to achieve any one or more of the following objects, that is to say:

(a) the overthrow by force or violence of the government of that other country;

(b) by force or violence causing the public in the other country to be in fear of suffering death or personal injury;

(c) causing the death of, or bodily injury to, a person who

(i) is the head of state or head of government of the other country
or

(ii) holds, or performs any of the duties of, a public office in the other country;

(d) unlawfully destroying or damaging any property belonging to the government of the other country;

whether or not any of the objects are achieved.

(5) In this section "relevant time" means the time of the doing of the act that is alleged to constitute a contravention of subsection (1).

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Foreign Recruitment

5. (1) No person shall within Barbados recruit any individual for the purpose of his taking part in any warfare or armed conflict outside Barbados.
- (2) No individual shall permit himself to be recruited within Barbados for the purpose of his taking part in any warfare or armed conflict outside Barbados.
6. (1) No person shall, by advertisement within or outside Barbados, induce an individual within Barbados to be recruited to take part in any warfare or armed conflict outside Barbados in contravention of this Act.
- (2) In this section "advertisement" means to advertise by word of mouth, through pamphlets, leaflets, or other published materials however printed and disseminated or to advertise by radio, television, rediffusion or other mode of public or private broadcasting or by any medium by which an advertisement can be made.
7. No person shall transport or convey, or assist in the transportation or conveyance of, an individual from Barbados to any place where warfare or armed conflict is in progress with the intent that the individual take part in warfare or armed conflict outside Barbados in contravention of this Act.
8. Nothing in this Act prevents an individual within Barbados from
- (a) serving, or recruiting another individual to serve, as a member of the armed forces of the Crown;
- (b) serving, or recruiting another individual to serve, in the armed forces of the government of another country under a treaty or other international agreement to which Barbados is a party; or
- (c) serving, or recruiting another individual to serve, as a member of a peace-keeping or other international force operating under the authority of the United Nations by resolution of the Security Council or of the General Assembly.

General

9. Nothing in this Act prevents an individual who does not bear arms or serve as a combatant or in support of combatants from doing or being approached to do any service of a medical or humanitarian nature for the relief of the suffering of civilians or combatants in any warfare or armed conflict outside Barbados.
10. A person who contravenes this Act is guilty of an offence triable on indictment and liable on conviction of a fine of twenty-five thousand dollars or imprisonment for five years or both.
11. The Foreign Enlistment Act, 1870, of the United Kingdom ceases to have effect in Barbados.
12. This Act comes into operation on a day to be fixed by proclamation.

BELGIUM

/Original: French/
/5 June 1980/

1. Annexed hereto is the text of the laws and certain provisions of the Penal Code governing, in Belgium, the recruitment of mercenaries, including:

Articles 135 bis, 135 quater, 135 quinquies and 136 of the Penal Code;

The Act of 29 July 1934 prohibiting private militias and supplementing the Act of 3 January 1933 relating to the manufacture, trading and carrying of arms and the trading of ammunition;

The Act of 1 August 1979 concerning service in a foreign army or force being in the territory of a foreign State.

2. The Government of Belgium considers that, taken as a whole, these texts already cover the subject-matter of a future international convention prohibiting the recruitment, use, financing and training of mercenaries. Belgium is prepared to take an active part in the drafting of such a convention.

Annex

(a) BELGIAN PENAL CODE

...

Crimes and offences against the security of the State

Crimes and offences infringing the rights guaranteed by the Constitution.

...

135 bis. /Act of 20 July 1939, sole article: Any person who directly or indirectly receives, in any form, from an alien or from a foreign organization gifts, presents, loans or other benefits intended or used wholly or partly for the purpose of engaging in or paying for any activity or propaganda in Belgium calculated to impair the integrity, sovereignty or independence of the Kingdom, or to undermine the allegiance owed by citizens to the State and to the institutions of the Belgian people, shall be liable to imprisonment for a term of six months to five years and a fine of 1,000 to 20,000 francs.

Whenever an offence is committed under this Act, the articles received shall be confiscated; article 9 of the Act of 31 May 1888 shall not apply to such confiscation.

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Deprivation of all or some of the rights enumerated in article 31 may be ordered for a period of 5 to 10 years.^{1/}

135 ter, abrogated by the Act of 1 August 1979^{1/}

135 quater. Amended by the Act of 1 August 1979^{1/} (Act of 23 June 1961, sole article):

Any person who procures the enlistment of a minor in a foreign army or force without the consent of his parents or guardian shall be liable to imprisonment for a term of one month to one year and fine of 1,000 to 10,000 francs, or either of such penalties.^{1/}

135 quinquies. Act of 23 June 1961, sole article: Any person attempting to commit the offences referred to in articles 135 ter and 135 quater shall be liable to the same penalties.^{1/}

Provision common to this title

136. Exemption from the penalties laid down for conspiracies which are punishable under this title and for the offences referred to in article 111 shall be granted to any of the offenders who, before any attempt to commit an offence and before the commencement of any legal proceedings, informs the authorities of such conspiracies or offences and of the identity of the principals or accomplices.

(b) ACT OF 29 JULY 1934 PROHIBITING PRIVATE MILITIAS AND SUPPLEMENTING THE ACT OF 3 JANUARY 1933 RELATING TO THE MANUFACTURE, TRADING AND CARRYING OF ARMS AND THE TRADING OF AMMUNITION

Article 1. All private militias or other organizations of private individuals established for the purpose of using force or of supplementing, interfering in the activities of or acting in lieu of the army or the police shall be prohibited.

Exceptions to this prohibition may be authorized for non-political organizations by royal order discussed in the Council of Ministers.

1 bis. Act of 4 May 1936, art. 1: Public exhibitions by groups of private individuals who, by reason of the exercises in which they engage or of the uniforms they wear or the equipment they carry, present the appearance of armed forces shall also be prohibited.

The foregoing shall not apply to groups whose purpose is solely of a sporting or recreational character, to groups pursuing solely charitable ends or to organizations authorized pursuant to article 1, second paragraph.^{1/}

^{1/} Reproduced below.

2. Act of 4 May 1936, art. 2. Without prejudice to the possible imposition of more severe penalties, persons forming a militia or organization in violation of article 1, persons organizing an exhibition in violation of article 1 bis, and persons lending assistance to or participating in the above shall be liable to imprisonment for a term of one month to one year and a fine of 26 to 300 francs, or either of such penalties.

The uniforms and distinctive insignia of the militias or organizations or of the persons engaging in the public exhibition, their weapons and equipment and any objects used by them or intended for use by them shall be seized. The court shall order the confiscation of the objects referred to in this article, whether or not they are the property of the person convicted.

2 bis. Act of 4 May 1936, art. 3: Any person who, during or on the occasion of a demonstration or meeting, is found to be in possession of an object dangerous to public safety shall be liable to imprisonment for a term of one week to six months and a fine of 26 francs, or either of such penalties.

If the object is a weapon, the term of imprisonment shall be two months to one year and the fine shall be 200 to 5,000 francs.

The object shall be seized and ordered to be confiscated, whether or not it is the property of the person convicted.

3. All provisions of book I of the Penal Code not derogated from by this Act shall apply to the offences referred to herein.

- Text as amended by the Act of 4 May 1936, art. 4.

4. Such offences shall be dealt with by the correctional courts, subject to the application of the Act of 15 June 1899, containing title I of the Code of Military Penal Procedure.

- Text as amended by the Act of 4 May 1936, art. 4.

(c) ACT OF 1 AUGUST 1979 CONCERNING SERVICE IN A FOREIGN ARMY
OR FORCE BEING IN THE TERRITORY OF A FOREIGN STATE

BAUDOUIN, King of the Belgians,

To all to whom these presents may come, greetings.

The Chambers have adopted and we assent to the following:

Article 1. With the exception of military technical assistance provided to a foreign State by the Government of Belgium, and without prejudice to the international obligations of Belgium or its participation in international police operations decided on by public-law organizations of which it is a member, the recruitment and all acts calculated to bring about or facilitate the recruitment of persons for a foreign army or force being in the territory of a foreign State shall be prohibited in Belgium.

Without prejudice to the application of articles 135 quater and 135 quinquies of the Penal Code, the prohibitions referred to in the preceding paragraph shall not apply to the recruitment by a foreign State of its own nationals.

Article 2. The King may, by reasoned order discussed in the Council of Ministers, prohibit, within such limits and for such period as he may determine, the enlistment, departure or transit of persons with a view to service in a foreign army or force being in the territory of a foreign State.

Article 3. The following shall also be prohibited outside the national territory:

(a) The recruitment and all acts calculated to bring about or facilitate the recruitment of Belgian nationals by a Belgian national for a foreign army or force being in the territory of a foreign State;

(b) The enlistment of Belgian nationals for service in a foreign army or force being in the territory of a foreign State, where such enlistment is prohibited for Belgians pursuant to article 2.

Article 4. Offences and attempted offences against articles 1 and 3 or against orders issued under article 2 shall be punishable by imprisonment for a term of three months to two years. All the provisions of book I of the Penal Code, including chapter VII and article 85, shall apply to such offences.

Article 5. Such offences shall be dealt with by the correctional courts, subject to the application of the Act of 15 June 1899, containing title I of the Code of Military Penal Procedure, and the Act of 8 April 1965 relating to the protection of young persons.

Article 6. In article 135 quater of the Penal Code, the words "shall be liable to imprisonment for a term of one month to one year and a fine of 1,000 to 10,000 francs, or either of such penalties" shall be replaced by the words "shall be liable to imprisonment for a term of three months to two years".

Article 7. Article 135 ter of the Penal Code and the order of the Sovereign Prince of 9 February 1815 punishing by penal servitude the crime of recruitment for the enemy are hereby repealed.

We hereby promulgate this Act and order that the Great Seal be affixed thereto and that it be published in the Moniteur belge.

Done at Motril, Spain, on 1 August 1979.

BOLIVIA

/Original: Spanish/
/22 June 1980/

I would inform you that the Government of Bolivia considers the recruitment, use, financing and training of mercenaries, whether designed to overthrow Governments of Member States or to fight national liberation movements in their legitimate struggle for the self-determination of peoples and against colonial domination or alien occupation, to be criminally punishable acts. Consequently, the Government of Bolivia believes that the drafting of the international convention in question is necessary and urgent.

CHILE

/Original: Spanish/
/30 July 1980/

1. It should be pointed out that Chile fully shares the concern and the feeling of urgency expressed by the international community through its main forum, the United Nations, and for that reason voted in favour of General Assembly resolution 34/44 of 23 November 1979 on the "Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights".
2. As regards the above-mentioned resolution and the Secretary-General's desire to be informed of our country's views with respect to its operative part, which terms the use of mercenaries against national liberation movements and sovereign States a criminal act, the Government of Chile has demonstrated its will to disallow mercenary activities by refusing to accord to mercenaries legitimate combatant status in hostilities. The legal opinion held by Chile is thus in line with the General Assembly resolution, and it therefore voted in favour of the latter.
3. However, the internal and international regulation of mercenary activities is a highly complex matter. Our country, in addition to holding that the use of mercenaries against any opposing force, and not only against national liberation movements or sovereign States, is a legally and morally reprehensible act, also rejects the possibility of regularizing paramilitary forces and, consequently, guerrillas. Moreover, Chile believes that a careful study will have to be made of the international treatment of "volunteer" groups which participate in hostilities and which are often confused with mercenaries.
4. Consequently, and in view of the preliminary comments made above, the Government of Chile whole-heartedly welcomes the action proposed in resolution 34/140, paragraph 3, and pledges its best efforts in that task.

CUBA

/Original: Spanish/

/18 July 1980/

1. With reference to General Assembly resolution 34/140, entitled "Drafting of an international convention against activities of mercenaries", the Government of the Republic of Cuba believes that the codification of this criminal act must be carried out in the light of contemporary international reality, with a view to a full understanding of its meaning and scope, and, in the context of an international system in which unjust relations of subordination and subjugation still predominate and of the resulting process of national liberation which characterizes the present stage of history.
2. Various international bodies have repeatedly condemned mercenarism.
3. The Sixth Conference of Heads of State or Government of Non-Aligned Countries, in its Final Declaration, vigorously denounced mercenarism and urged all States to enact legislation making such activities punishable (A/34/542).
4. Mention should be made of the declarations and recommendations of the International Commission on Mercenaries, convened at Luanda in June 1976 on the initiative of the Government of the People's Republic of Angola, which are of particular importance because that was the first time when a group of mercenaries and mercenarism itself, as a criminal practice, were placed on trial.
5. The Government of the Republic of Cuba takes this opportunity to reaffirm that mercenarism and related activities constitute serious violations of the fundamental principles and norms of international law, in particular the Charter of the United Nations, because by their nature and adverse effects they endanger international peace and security by impeding the full and effective realization of the fundamental and inalienable rights of peoples.
6. Consistent with this position, the Cuban Penal Code, promulgated on 15 February 1979 (Law No. 21 of 1979), includes mercenarism among "crimes against international law", defines it and specifies the penalties for those directly or indirectly responsible for such practices.
7. Cuba believes that the legal proscription of mercenarism must also, and fundamentally, be of a universal character, in keeping with its intrinsic nature as an international crime, and must therefore be the subject of an international convention for its suppression and punishment concluded under the auspices of the United Nations, inasmuch as mercenarism is incompatible with the objectives of the United Nations Charter.
8. In the opinion of the Government of the Republic of Cuba, the future convention should cover, inter alia, the following:

/...

- (a) The nature, objectives and mercantile character of mercenary activities;
- (b) The responsibility incurred not only by anyone who participates directly but also by those promoting, financing, encouraging, recruiting, organizing or training mercenaries or in any way assisting the carrying out of mercenary operations, whether individuals, groups or associations, and the use in any form of military forces composed of or including persons who are not citizens of the country in which such forces will be operating;
- (c) Rules for the prosecution of those accused of the crime of mercenarism, including rules concerning extradition and jurisdiction;
- (d) An undertaking by the Contracting Parties to adopt legislative measures, particularly the inclusion of the crime of mercenarism in their penal codes;
- (e) Prohibition of the kind of activities mentioned in subparagraph (b) in those territories which are still under the jurisdiction, rule or control of a State.

INDIA

/Original: English/
/8 May 1980/

The Government of India supports the idea of elaboration of an international convention to prohibit the recruitment, use, financing and training of mercenaries.

LIBERIA

/Original: English/
/14 May 1980/

Having carefully studied General Assembly resolution 34/140, the Government of Liberia associates itself with it. Consequently, with reference to operative paragraph 3, calling for the views and comments of Member States on the need to "elaborate urgently an international convention to prohibit the recruitment, use, financing and training of mercenaries", the Government of Liberia, for reasons stated above, wishes to indicate its complete concurrence with said proposal as such activities of mercenaries particularly in Africa and other developing countries of the world pose a threat to international peace and security.

LIBYAN ARAB JAMAHIRIYA

/Original: English/
/29 July 1980/

The Libyan Arab Jamahiriya fully supports the measures to be taken through international convention to prohibit the recruitment, use, financing and training of mercenaries. Furthermore, Libyan laws and regulations prohibit and punish these kind of activities in general.

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NICARAGUA

/Original: Spanish/
/24 June 1980/

1. The Government of Nicaragua fully appreciates the international need for the drafting of an international convention to prohibit the recruitment, use and training of mercenaries, so as to prevent the continuation of a criminal practice which has spread to those parts of the world where the peoples are struggling against oppression. It considers that, among other points, the following should be taken into account in the future convention:

(a) The use of mercenaries constitutes a serious threat to international peace and security;

(b) A mercenary is a criminal who is motivated to take part in hostilities essentially by the desire for private gain, against which human life and the yearnings for freedom of the oppressed peoples of the world count for nothing; he is therefore an outlaw and must be punished;

The convention should lay down specific penalties and make extradition mandatory as between the States parties;

(c) In order to prevent any confusion, a person should be termed a mercenary only if he meets all the criteria laid down in the definition in article 47 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I); 2/

(d) The use of mercenaries by oppressive, colonial and racist régimes against the peoples and national liberation movements struggling for freedom, independence and self-determination is a criminal practice; accordingly, Governments which permit the recruitment, use and training of such individuals are accomplices of those régimes and accessories to the criminal acts of the mercenaries, and should therefore be subject to sanctions by the international community;

(e) The States parties should undertake to adopt the necessary legislative and administrative measures to prevent the recruitment, transit or use of mercenaries in territories under their jurisdiction, and also to prohibit their nationals from enlisting as mercenaries by making that in itself a punishable offence.

ROMANIA

/Original: French/
/14 July 1980/

1. The Socialist Republic of Romania bases its external relations on the principles, widely recognized by States, of national independence and sovereignty,

equality of rights, non-interference in internal affairs and non-use of force or threat of force.

2. Experience shows that respect for these principles is the prerequisite for international peace and security; any violation of this indivisible dialectical body of international norms can cause a serious deterioration in international relations.

3. Romania has actively sought, and continues to seek, to have the "rule of force" replaced by the "rule of law" in relations between States. It has stressed the imperative need for all States, regardless of their economic, military or other potential, to make a solemn commitment to renounce the use or threat of force for the settlement of international disputes, which should be resolved exclusively through the political channel, by peaceful means and negotiations.

4. Romania feels that no consideration whatever, political or military, can justify the use or threat of force, interference in the internal affairs of other States, or support by force of arms for the activities of groups rebelling against the lawful Governments of sovereign States.

5. Romania stands for a resolute policy of active solidarity with the peoples struggling to secure their right to live in freedom and independence and to eliminate all forms of colonialist or neo-colonialist domination.

6. Similarly, Romania has given and continues to give its full support to the national liberation movements. It believes that efforts must be intensified to put an end for ever to all forms of exploitation of one people by another and to policies of racial discrimination, and to establish democratic relations among peoples without distinction as to race or colour.

7. In the light of the foregoing, Romania regards the recruitment, financing and training of mercenaries - a throw-back to colonialism - as criminal acts and a flagrant violation of the principles of international law, a fact which justifies the concern of the United Nations for the adoption of measures to combat them.

8. From this standpoint, General Assembly resolution 34/140 provides a good indication of the directions in which future co-operation among States in this field should proceed.

9. As a constant advocate of the development, formulation and adoption of norms of international law and the establishment of qualitatively better relations among States, Romania considers that now is the time to draft an international convention prohibiting the recruitment, use, financing and training of mercenaries, because the activities of mercenaries are a growing threat to international peace and security and the prohibition of such activities is in keeping with the policy of peace, collaboration, international understanding and peaceful co-existence among peoples which Romania constantly supports.

SURINAME

/Original: English/

/4 June 1980/

1. Throughout their long history of inadmissible activities, mercenaries have been engaged in developing countries in preventing the peoples of those countries from exercising their right to self-determination.
2. As servants of foreign political, economic or other interests they have attempted to subvert the national unity, sovereignty, political independence and territorial integrity of those countries.
3. In the course of their unlawful activities they have killed and maimed numerous innocent civilians and caused extensive damage to property in those countries.
4. The Government of Suriname, therefore, regards the activities of mercenaries as criminal activities.
5. In recent years those activities seem to be on the increase while, at the same time, enjoying some degree of legality in and aid of certain quarters.
6. The Government of Suriname shares the view that there is an urgent need to elaborate an international convention to outlaw and prohibit the recruitment, training, assembly, transit, use and financing of mercenaries in all their manifestations.
7. The Government of Suriname, furthermore, wishes to point out that the delegation of Suriname supported General Assembly resolution 34/140, which was adopted on 14 December 1979 without a vote.

SWEDEN

/Original: English/

/31 March 1980/

1. The Swedish Penal Code contains an article (Chap. 19, Sect. 12) which prohibits the recruitment in Sweden of persons for foreign military service. This article in translation into English reads as follows:

"If a person within Sweden and without the permission of the Government recruits people for foreign military service or service comparable to it or induces people to leave the country unlawfully in order to enter such service, he shall be sentenced for unlawful recruiting to pay a fine or to a maximum imprisonment of six months, or, if the country was at war, to a maximum imprisonment of two years."

2. The Swedish Government does not feel convinced of the need to elaborate an international convention in regard to mercenaries. If, however, there is a widespread view among other Governments that such a convention should be concluded, the Swedish Government will be prepared to co-operate in the work on this convention.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

/Original: English/

/30 July 1980/

The Government of the United Kingdom agree that consideration should be given to the need for an international convention as proposed under paragraph 3 of resolution 34/140. The United Kingdom already has legislation (the Foreign Enlistment Act 1870) which restricts British subjects from engaging in certain activities in foreign states. The text of the Act is reproduced in an annex.

Annex

An Act to regulate the conduct of Her Majesty's Subjects during the existence of hostilities between foreign states with which Her Majesty is at peace.

/9th August 1870/

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary

1. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870."
2. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.
3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every British possession by the governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act.

Illegal Enlistment

4. If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board, such ship within Her Majesty's dominions, any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

- (1) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state;
- (2) Any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;
- (3) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue; that is to say,

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour; and
- (2) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace; and
- (3) All illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

Illegal Shipbuilding and Illegal Expeditions

8. If any person within Her Majesty's dominions, without the licence of Her Majesty, does any of the following acts; that is to say,
 - (1) Builds or agrees to build, or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or
 - (2) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

- (3) Equips any ship with intent or knowledge, or having a reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or
- (4) Despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state:

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour;
- (2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; (that is to say,)

- (1) If forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State;
 - (2) If he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.
9. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,

By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

11. If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

- (1) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
 - (2) All ships, and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.
12. Any person who aids, abets, counsels, or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender.
13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years.

Illegal Prize

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with

knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorised in that behalf by the Government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

General Provision

15. For the purposes of this Act, a license by Her Majesty shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

Legal Procedure

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be.
17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.
18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant", direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be

conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

19. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.
20. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.
21. The following officers, that is to say,
 - (1) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioners of Customs, or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade;
 - (2) Any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession;

/...

- (3) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

may seize or detain any ship liable to be seized or detained in pursuance of this Act and such officers are in this Act referred to as the "local authority"; but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

22. Any officer authorized to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.
23. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner herein-after mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive and why that the ship shall not be employed contrary to this Act or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24. Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

25. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dockyard or other place within Her Majesty's dominions and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state, and to search such ship.
26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say,
- (1) In Ireland by the Lord Lieutenant or other the chief governor or governors of Ireland for the time being, or the chief secretary to the Lord Lieutenant;
 - (2) In Jersey by the Lieutenant Governor;

- (3) In Guernsey, Alderney, and Sark, and the dependent islands by the Lieutenant Governor;
- (4) In the Isle of Man by the Lieutenant Governor;
- (5) In any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man shall be laid before Parliament.

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.
28. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.
29. The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Interpretation Clause

30. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them; that is to say,

"Foreign state" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people;

"Military service" shall include military telegraphy and any other employment whatever, in or in connexion with any military operation;

"Naval service" shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer or ship under letters of marque; and as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque;

/...

"United Kingdom" includes the Isle of Man, the Channel Islands and other adjacent islands:

"British possession" means any territory, colony, or place being part of Her Majesty's dominions, and not part of the United Kingdom as defined by this Act:

"The Secretary of State" shall mean any one of Her Majesty's Principal Secretaries of State:

"The Governor" shall as respects India mean the Governor General or the governor of any presidency, and where a British possession consists of several constituent colonies, mean the Governor General of the whole possession or the Governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession; also any person acting for or in the capacity of a governor shall be included under the term "Governor":

"Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland or any Vice-Admiralty Court within Her Majesty's dominions:

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water:

"Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:

"Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipping shall be construed accordingly:

"Ship and equipment" shall include a ship and everything in or belonging to a ship:

"Master" shall include any person having the charge or command of a ship.

Repeal of Acts, and Saving Clauses

31. From and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, chapter sixty-nine, intituled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service, and the fitting out or equipping, in His Majesty's dominions, vessels for warlike purposes, without His Majesty's license," shall be repealed:

Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid.

32. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign state, or give to any British court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign state any jurisdiction which it would not have had if this Act had not passed.
33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia.
