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

Report of the Secretary-General

Addendum

CONTENTS

	<u>Page</u>
VIEWS AND COMMENTS OR GOVERNMENTS	
Finland . . . . .	2
Hungary . . . . .	2
Philippines . . . . .	4

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\* Reissued for technical reasons.

FINLAND

/Original: English/  
/19 September 1980/

1. Finland is ready to consider, in co-operation with other States, the problems related to the recruitment, use, financing and training of mercenaries with a view to finding ways and means which could be conducive to the solution of the problems referred to in General Assembly resolution 34/140.

2. The texts of the provisions of the Penal Code of Finland relevant to the recruitment of mercenaries are annexed. Furthermore, it may be recalled that Finland has ratified the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), 1/ which in its article 47 contains a provision on mercenaries.

Annex

Penal Code of Finland

CHAPTER 12. On Treason

1. Any Finnish citizen who joins armed forces, knowing them to be the enemy's, or who refuses to leave such armed forces, shall be sentenced to penitentiary imprisonment for life or for a fixed term of a minimum of six years.

CHAPTER 16. On Offences against a Public Authority and Public Peace

22. Whoever recruits a Finnish citizen into the military service of a foreign power shall be sentenced to imprisonment for a maximum of one year or to a minimum fine of fifty marks.

The sentence for a person who procures military troops for the enemy is provided for in Chapter 12.

HUNGARY

/Original: English/  
/18 September 1980/

1. The Government of the Hungarian People's Republic supports any initiative to promote respect for the right of peoples to self-determination and their just struggle for independence and the elimination of colonial oppression and neo-colonialism. It therefore concurs with the idea of elaborating and adopting

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1/ Reproduced in document A/32/144, annex I.

as soon as possible, within the framework of the United Nations, a convention strictly prohibiting the recruitment, use, financing and training of mercenaries, in particular their use against national liberation movements and against newly independent States.

2. The conclusion of such a convention would be an effective contribution to the implementation of the principle of self-determination as enshrined in the Charter of the United Nations. The practice of using mercenaries against the liberation movements of peoples fighting for freedom and independence is an offence against contemporary international law which constitutes a grave threat to the peace and security of peoples.

3. The recruitment, training and use of mercenaries have been repeatedly condemned by the international community in United Nations forums. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations 2/ prohibits States from organizing or encouraging the organization of mercenaries for incursion into the territory of another State. The practice of using mercenaries is at variance also with the Definition of Aggression. 3/ General Assembly resolution 2465 (XXIII) of 20 December 1968 condemns the practice of using mercenaries against liberation movements and calls upon States to enact legislation declaring the recruitment, financing and training of mercenaries to be a criminal offence, while resolution 3103 (XXVIII) of 12 December 1973 considers the use of mercenaries against the national liberation movements struggling for their freedom and independence from the yoke of colonialism and alien domination to be a criminal act, thereby emphasizing the significance of the struggle of progressive forces against colonialism, neo-colonialism, and racism and reaffirming its earlier resolutions 2548 (XXIV) of 11 December 1969 and 2708 (XXV) of 14 December 1970. Furthermore, Additional Protocol I to the 1949 Geneva Conventions, and relating to the protection of victims of international armed conflicts, 4/ denies mercenaries the status of combatants and prisoners of war.

4. The Government of the Hungarian People's Republic deems it important and necessary to have an international convention concluded as soon as possible which will reaffirm, consolidate and develop further the principles and provisions of earlier resolutions. will prohibit the recruitment, use, financing and training of mercenaries; will establish the responsibility of States under international law for violation of such prohibition; and will declare mercenaries to be criminals.

5. In its article 15<sup>4</sup>, the Criminal Code (Act No. IV of 1978) of the Hungarian People's Republic provides that "any Hungarian citizen who voluntarily joins an armed formation organized for the oppression of peoples shall be deemed to commit a crime". As is stated in the commentary to article 2 of this Act, "the foreign

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2/ General Assembly resolution 2625 (XXV), annex.

3/ General Assembly resolution 3314 (XXIX), annex.

4/ Reproduced in document A/32/144, annex I.

policy of Hungary respects the right of peoples to self-determination and supports the liberation movements of peoples fighting against colonial oppression. The Hungarian People's Republic consequently forbids its citizens to belong to any armed band organized for the suppression of the freedom and independence of a people". According to the commentary, voluntary entry into an armed formation organized for the oppression of peoples means any form of joining such a band and participating in its activity.

#### PHILIPPINES

/Original: English/

/9 October 1980/

1. The Government of the Philippines expresses its support for an international convention to prohibit the recruitment, use, financing and training of mercenaries.
2. It is the view of the Philippine Government that such an international convention should not curtail any State's defence options, such as in the matter of concluding defence arrangements with another State or with a group of States. The effect of these qualifications is to limit the scope of the term mercenary, as defined in article 47 of the Protocol I (1977) to the Geneva Conventions of 1949, 4/ to those who offer their military services, in a hostility, as individuals (or groups of individuals) without the official authority or sanction of the State of which they are citizens, principally for a price, i.e., as soldiers of fortune, and to exclude therefrom such military personnel of a foreign country who may be rendering military service for an allied State pursuant to some treaty commitment validly recognized under the Charter of the United Nations or the principles of international law.
3. While there is no specific Philippine law or policy expressly proscribing mercenarism as such, a variety of laws exist which, collectively, are reflective of the Philippine Government's disposition towards it, and individually or in combination with each other, may be utilized to check and/or punish its practitioners. Among such laws and policies are: the constitutional provision on the renunciation of war as an instrument of national policy; the policy of non-intervention in the internal affairs of other States; laws strictly regulating the use, possession and carrying outside of one's residence of firearms and explosives, prohibiting illegal associations or assembly, or the unauthorized undertaking by non-military personnel of military and quasi-military activities, as well as statutes penalizing the unauthorized use of military uniform, insignia, etc., and the usurpation of authority.
4. The Philippine Government will never resort to or allow the use of foreign military personnel in the solution of any internal security problem.

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