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Chairman: Mr. KOROMA (Sierra Leone)

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AGENDA ITEM 29: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES: REPORT OF THE SECRETARY-GENERAL

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The meeting was called to order at 11.15 a.m.

AGENDA ITEM 29: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES: REPORT OF THE SECRETARY-GENERAL (A/35/366 and Add.1 and 2)

1. Mr. SUY (Under-Secretary-General, The Legal Counsel), introducing the report of the Secretary-General (A/35/366 and Add.1 and 2) compiling views and comments of Member States on the need to elaborate urgently an international convention against the recruitment, use, financing and training of mercenaries, pursuant to General Assembly resolution 34/140, reminded the Committee that in that resolution, the General Assembly, concerned by the increasing menace which the activities of mercenaries represented for all States, particularly African States and other small developing States of the world, and recognizing that mercenarism was a threat to international peace and security and, like murder, piracy and genocide, was a universal crime against humanity, had decided inter alia to consider the drafting of an international convention to outlaw mercenarism in all its manifestations. He also drew the attention of the Committee to the seventh preambular paragraph of that resolution.

2. The item which the Committee was about to consider at the request of the delegation of Nigeria had already received the attention of various bodies of the United Nations and regional organizations such as the Organization of African Unity (OAU). In that regard, particular reference should be made to Security Council resolutions 239 (1967), 405 (1977) and 419 (1977) and General Assembly resolutions 2395 (XXIII), 2708 (XXV), and 3103 (XXVIII) which affirmed the effects of the activities of mercenarism on international peace and security. Furthermore, the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts had adopted on 8 June 1967 Additional Protocol I to the Geneva Conventions of 1949, relating to the protection of victims of international armed conflicts, article 47 of which referred to mercenaries.

3. The item had also been referred to in various bodies and special committees of the United Nations in their consideration of related subjects such as the hijacking of aircraft, kidnappings, and the taking of hostages. At the regional level, mention should be made of the Convention for the Elimination of Mercenaries in Africa, adopted by OAU in 1976, the Luanda Declaration, formulated in 1976 by the International Commission of Enquiry on Mercenaries and the Declaration of the Sixth Conference of Heads of State and Government of Non-African Countries.

4. It was important to note that, focusing upon the nature of the problem, General Assembly resolution 34/140 had deplored the increased recruitment, training, assembly, transit and use of mercenaries. The seriousness and urgency with which the international community seemed to be committed to the elimination of mercenarism

had been further illustrated in the comments and views of Member States transmitted to the Secretary-General. Consistent with its initiative in bringing the question to the attention of the United Nations, Nigeria had provided the Committee with a draft international convention against the activities of mercenaries (A/35/366/Add.1, pp. 7-9).

5. Mr. RAZAFINDRALAMBO (Madagascar) expressed regret that the international community, imbued with the principles of decolonization, had not given the problem of mercenarism the attention it deserved. The phenomenon had become more prevalent over the past few decades, especially in the region south of the Sahara, whose peoples, engaged in the inexorable process of national independence, had set up the principle of permanent sovereignty over natural resources as a dogma. Although the phenomenon of mercenarism had existed for centuries, so that it might well be asked if it was not the oldest profession in the world, it had become institutionalized during the colonial conquests of the nineteenth century, when troops recruited by the colonizing countries had been systematically used outside their own borders. It was well known that the colonial empires had been built up by the massive use of non-European soldiers, as had been the fate of Madagascar twice in the course of its history, having been invaded in 1895 and 1947. Since the 1960s, colonial interests, seeing themselves threatened, had begun to recruit demobilized soldiers in order to form private militias, the so-called "soldiers of fortune", which had been used to attack directly the fledgling armies of the sovereign States of the third world which were fighting to free themselves from the domination of the multinational corporations.

6. The States Members of the United Nations had at all times been fully aware of the seriousness of the phenomenon of mercenarism and the General Assembly had condemned, especially in resolutions 2465 (XXIII) and 3103 (XXVIII), the use of mercenaries against national liberation and independence movements. In resolutions 405 (1977) and 419 (1977) the Security Council had also emphasized the need to solve the problem of the mercenaries. Other international forums had joined with the States Members of the United Nations in condemning that practice which was contrary to the rules recognized by the international community. Thus, the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts had adopted a Protocol relating to the protection of victims of international armed conflicts, which included a definition of mercenaries.

7. At the regional level, the International Commission of Enquiry on Mercenaries, in which representatives of over 40 countries had participated, had adopted in 1976 the Luanda Declaration which had condemned the armed intervention of mercenaries in Africa and had requested States to prepare an international convention to prohibit their recruitment. The same year, OAU had adopted a resolution stating that the enemies of Africa were ready to oppose the continent's struggle against colonization, neo-colonialism, racism and apartheid and to that end were resorting to mercenaries to thwart the aspirations of the African peoples to independence and self-determination. Pursuant to that resolution, OAU had adopted at Addis Ababa in 1977 a Convention for the Elimination of Mercenaries in Africa.

(Mr. Razafindralambo, Madagascar)

8. However, for such an instrument to be really effective, it was essential that the whole international community should recognize it as mandatory, and the current international situation showed that the centres of proliferation of mercenarism were in the affluent societies, the industrialized countries, which had the capital necessary for the financing, recruitment and training of mercenaries. Those countries had not shown too much enthusiasm in implementing the various relevant General Assembly resolutions and it was symptomatic that those very countries which constantly proclaimed their allegiance to the primacy of law and the progressive development and codification of international law should, with one or two exceptions, not have transmitted the comments requested in General Assembly resolution 34/140. Moreover, in the name of the sacrosanct principle of free enterprise and individual liberty, some countries extended a welcome to the mercenaries which, at best, was in open defiance of public opinion in the third world countries.

9. The problem of the mercenaries called for an urgent solution and his delegation was in favour of adopting the procedure followed in dealing with the question of apartheid, which was closely connected with the problem of mercenaries, namely that the draft convention submitted by Nigeria should be considered by an ad hoc committee on mercenaries, responsible for preparing as soon as possible an international instrument based on the OAU Convention.

10. Mr. IMAM (Kuwait) noted that the question of mercenaries raised many legal questions, for example, the responsibility of the State of origin, the State of transit, the State in which the mercenaries were trained and the State which supplied them with logistic support; moreover, international law provided no definition of the term "mercenaries", since the usual subjects of international law were States, not individuals.

11. In recent years, the question of mercenaries had begun to attract the attention of the United Nations, as was reflected, for example, in the Security Council resolution condemning the action taken in January 1977 by a group of mercenaries against Benin as armed aggression against that country. The same was true of the resolutions adopted in 1961 and 1962 concerning the evacuation of mercenaries from Katanga, in which the existence of a foreign aggressor in the Congo had been referred to as a threat to international peace and security. Although mercenaries were volunteers, it was important to remember the purpose for which they were sent. In fact, they could take part in a war of aggression waged by one State against another or they could be used, in conformity with the right of individual or collective self-defence, to provide assistance to a State that was the victim of aggression.

12. In considering the item, it was important to bear in mind the need to protect the political independence of States, the obligation incumbent on States not to interfere in the internal affairs of others and the right of peoples to self-determination. International law proscribed the use of force by a colonial régime in order to prevent the people under its administration from exercising their right to self-determination, but it recognized that oppressed peoples could resort to armed force in order to ensure the exercise of that right. Although the right to

(Mr. Imam, Kuwait)

self-determination must be exercised without foreign intervention, the refusal by a colonial, racist or foreign Government to allow the exercise of that right authorized third parties to intervene. Several General Assembly resolutions relating to decolonization stipulated that the use of mercenaries against national liberation movements was a crime and that the mercenaries themselves were criminals beyond the pale of the law.

13. There were three definitions of the term "mercenary", which were not universally applied. The first dated back to 1972, when it had appeared in a draft convention on the elimination of mercenaries in Africa, proposed at a conference of heads of state held at Rabat. According to that definition, a mercenary was a person who, not having the nationality of the country against which his actions were directed, was employed, enrolled or voluntarily attached to a person, group or organization, the purpose of which was to overthrow by force or by any other means the Government of a member of the Organization of African Unity (OAU), to violate the independence, territorial integrity or normal functions of that State, or to oppose by any means whatsoever the activities of a liberation movement recognized by OAU. The second definition was the result of a judgement pronounced at Luanda in 1976, according to which a mercenary was a person who, for private gain, either individually or in concert with others, sought by violence to prevent the process of self-determination of a nation of which he was not a national or to impose on it, by the same means, a neo-colonial existence. The third definition had been proposed by the delegation of Nigeria during the diplomatic conference held at Geneva in 1976; according to that definition, a mercenary was any person not belonging to the armed forces of a party to the conflict, who was recruited abroad and who fought or took part in an armed conflict for money payment, a reward or other personal gain.

14. Although those definitions were not uniform, they contained certain common elements. For example, the mercenary was a volunteer, his engagement was of a private nature, he was not a citizen of any of the parties to the conflict and he did not reside in a country that was a party to the conflict. Moreover, he must be recruited for an illegal purpose and must not be a member of the regular forces of a State. The main factor was the lucrative nature of his action, in other words, the selfish, interested motive that distinguished him from the volunteer who fought for an ideal or out of political belief.

15. Current practice at the United Nations was to condemn a mercenary only if he was used by colonial or racist Governments or authorities of foreign occupation against a national liberation movement. The OAU Declaration adopted in June 1971 condemned a mercenary when he served to undermine the sovereignty, independence and territorial integrity of a State member of OAU. Those texts did not condemn the mercenary as such, but the cause he served. Other texts stated that mercenaries were not the only guilty parties; the guilt also extended to the Government that recruited, armed or paid them.

16. A review of the few texts relating to mercenaries showed the law on that subject to be very unsatisfactory, despite the serious impact that problem had on international relations. The status of the mercenary was determined more by an enumeration of the rights and obligations of States in that sphere than by the rights and obligations States might derive directly from the norms of public international law.

(Mr. Imam, Kuwait)

17. States should not use mercenaries to undertake hostile actions against others. Moreover, they were under an obligation to tolerate or encourage the activities of international volunteers aimed at assisting a liberation movement whose legitimacy had been recognized by the United Nations and to protect a State against the violation of its neutrality, territorial integrity, political independence and sovereignty. Accordingly, it might be appropriate to use the term "mercenary" when an unlawful situation was involved and to use the term "international volunteer" when the activity in question was in conformity with the norms of international law and with the theory and practice of the United Nations.

18. His delegation believed that it would be useful to prepare a study on the status of mercenaries and international volunteers in international law in the light of the replies received from Governments and the corpus of law existing on that subject, including the work of distinguished jurists. The codification of the law on that topic would be slow and arduous, but it was to be hoped that it would culminate in an international convention that embodied norms binding on States parties.

19. Mr. CLARK (Nigeria) drew attention to the fact that the international community had long been seized of the problem posed by the activities of mercenaries. In resolution 3103 (XXVIII) of 12 December 1973, the General Assembly, while reaffirming its earlier resolutions on that issue, had branded as criminal the practice of using mercenaries by colonial and racist régimes against national liberation movements struggling for freedom and independence and had decided that mercenaries should be punished as criminals. In resolution 405 (1977), the Security Council, after considering the invasion of Benin by a band of mercenaries, had condemned all forms of external interference in the internal affairs of Member States, including the use of international mercenaries to destabilize States and/or to violate their territorial integrity or independence.

20. As early as 1964, the Organization of African Unity had issued a statement on the issue in which it declared that foreign intervention and the use of mercenaries had unfortunate effects on and constituted a serious threat to peace in the African continent. Eminent publicists had likewise recognized that mercenary activities constituted a serious threat to international peace and security.

21. Such manifestations of indignation had not proved to be either a deterrent or a remedy. In spite of universal condemnation of mercenary activities and their denunciation as a crime against humanity, a number of States were continuing to ignore public opinion and even conniving at the recruitment, financing and training of mercenaries within their own territories.

22. In the report of the Secretary-General (A/35/366 and Add.1-2), several States had referred to article 47 of Additional Protocol I to the 1949 Geneva Conventions, the text of which had originally been sponsored by the Nigerian delegation and which stated that the mercenary was not considered a combatant or a prisoner of war. That article sought to define who was a mercenary and to deny him the protection envisaged for war victims. There was no provision for any penalty for mercenaries, their use by one State against another was not branded as an act of aggression by

(Mr. Clark, Nigeria)

that State, the recruitment, training and financing of mercenaries was not prohibited, and there was no provision for the obligation of States under international law to prevent the recruiting or organizing of mercenaries for the purpose of overthrowing Governments or frustrating the struggles of peoples for their freedom and independence. It was not enough, however, to punish responsible individuals; it was also important to place responsibility on those who assisted them in any way and to establish the liability of States which either did not prevent their nationals from being recruited as mercenaries or permitted mercenaries to be recruited, financed, trained and transported within their territories.

23. Several countries had enacted legislation to punish their nationals who served in foreign armed forces. There was, for example, the United Kingdom's Act of 1870 which did not, however, make service as a mercenary an offence. In the United States, the neutrality laws made it an offence for any person to accept a commission or to enlist in or agree to go abroad for the purpose of enlistment in a foreign force. However, those laws applied only to acts within the country. Australia had promulgated an Act which made it an offence to recruit a person in Australia to serve in the armed forces of a foreign country; any advertisement for the purpose of recruiting mercenaries was also an offence. However, the Act failed to make it an offence for an Australian to enlist outside the territory, and the same appeared to be the case of the laws of Belgium and other European countries. The most up-to-date and comprehensive law on the matter was the Barbados' 1979 Act, which made it unlawful for citizens of that country to engage in armed incursions against the Government of another country and prohibited the recruiting of mercenaries within Barbados. Equally noteworthy was the constant reaffirmation by the socialist countries that their principles of Leninist foreign policy made them natural foes of colonial oppression, racism and apartheid and thereby automatically of mercenarism.

24. The threat posed by the activities of mercenaries required an international solution. No national, bilateral or regional instrument would be adequate to deal with all aspects of the problem. Mercenarism violated the fundamental principles of international law, such as sovereignty, non-interference in the internal affairs of other States, and territorial integrity and independence of States, and it encouraged the escalation of violence in wars of national liberation.

25. The Organization of African Unity had made a most commendable effort by adopting a Convention for the Elimination of Mercenaries in Africa. Because the Convention was applicable only to Africa, however, it had not put an end to the activities of mercenaries in other developing countries.

26. It was not enough for an international convention against the activities of mercenaries to punish only responsible individuals. It should also give effect to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations by laying down that it was the duty of every State to refrain from organizing or encouraging the organization or recruitment of mercenaries for incursion into the territory of another State and that it was incumbent on all States to use all means at their disposal to prevent their nationals and all aliens within their territories from engaging in or encouraging the recruitment, training and financing of

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mercenaries. In that connexion, he drew attention to the Luanda Declaration, issued in 1976 by the International Commission of Enquiry on Mercenaries, in which 42 jurists from all regions had stated that the mercenaries who had invaded Angola had been recruited in the United States and five western European countries, that not only was the existence of private recruiting agencies in the United States and Great Britain documented, but that there were also periodicals, such as Soldiers of Fortune, which campaigned for the recruitment of mercenaries; it was clear, according to the Declaration, that the recruitment, travel and equipping of mercenaries could not be accomplished without the tacit agreement of the Governments in the countries where they were recruited and equipped.

27. For the peoples of Africa and other developing countries who were invariably the victims of those callous acts, the activities of mercenaries constituted a serious threat to international peace and solidarity. A mercenary was a hired assassin and an embodiment of everything Africans were fighting to defeat, namely, racism, colonialism and apartheid. Mercenaries were accomplices of powerful colonial interests and of all those who stood to gain by the maintenance of the status quo. As matters stood, the South African régime had over 1,900 white mercenaries in its employ for its genocidal war against the people of Namibia and it was recruiting more to deal with the internal revolt against its racist policies within South Africa.

28. The international community had already taken important measures against international terrorism, such as the adoption of an International Convention against the Taking of Hostages. Mercenary activity was another aspect of international terrorism and should be dealt with in the same manner and given the same attention.

29. His delegation was pleased with the comments of Member States reproduced in the report of the Secretary-General (A/35/366 and Add.1-2), which were indicative of the concern of the international community about the problem. The overwhelming majority of those comments clearly showed the necessity of drafting an international convention against mercenarism which, as the delegations of Austria and Venezuela, among others, had observed, could contribute to international peace and security.

30. In the view of his delegation, the time to act had come, and to that end, his delegation had proposed a draft convention against the activities of mercenaries (A/35/366/Add.1), which was intended to facilitate further consideration of the matter. It also suggested that an ad hoc intergovernmental working group with equitable geographical representation should be established; that seemed to be preferable to referring the matter to the International Law Commission. The group might meet twice only, once to prepare a draft convention and again to recommend the text to the General Assembly for adoption.

31. Mr. MEISSNER (German Democratic Republic) said that his country was in favour of drafting an international convention against the activities of mercenaries, which disturbed the peaceful living together of States and were directed at maintaining or re-establishing reactionary, colonial or racist régimes. The United Nations should counter the threats which such activities represented to the maintenance of international peace and security.

(Mr. Meissner, German Democratic Republic)

32. It did not suffice, however, to condemn those activities; effective measures had to be adopted to prevent them and to prohibit the recruitment, use, financing and training of mercenaries, a task in which his country was prepared to co-operate.

33. In the drafting of the convention decisive significance would have to be accorded to defining the term "mercenary" and those acts which constituted crimes of mercenarism. In that context, the OAU Convention for the Elimination of Mercenaries in Africa could constitute a suitable basis for the work. The definition of the term "mercenary" contained in that Convention corresponded - with regard to its content - to the definition contained in paragraph 2 of article 47 of Additional Protocol I to the 1949 Geneva Conventions. The important decision as to whether any person engaged in an armed conflict should be treated under the terms of the laws of war would depend on the exact definition of the term.

34. Although General Assembly resolutions 2625 (XXV) and 3314 (XXIX) prohibited the use of mercenaries against independent sovereign States, the practice had become more widespread. Consequently any international convention against mercenaries would have to prohibit the use of mercenaries by one State against another, the recruitment of mercenaries and the provision of assistance of any kind by States to mercenaries. The activities of mercenaries constituted flagrant violations of basic binding principles of international law and an obstacle to the exercise by peoples of their right to self-determination.

35. Like other socialist States, the German Democratic Republic was resolutely opposed to such practices, and its Constitution and Penal Code made the activities of mercenaries on its territory and any assistance to them punishable by severe penalties. Moreover, its citizens were prohibited from serving as mercenaries.

36. Mr. GONZALEZ GALVES (Mexico) said that any study of the subject must start out from the premise that, by virtue of General Assembly and Security Council resolutions, bilateral and multilateral treaties, and the opinions of eminent jurists, the international community had succeeded in modifying the rule in force less than a century earlier which had permitted the unrestricted use of mercenaries in armed conflicts. That change had come about as a result of the establishment and development of the rules applicable to neutrality, which had as their corollary the duty not to allow mercenaries to be recruited in or dispatched from third States to the territory of a belligerent State. Mention should be made of General Assembly resolutions 2625 (XXV) and 3314 (XXIX), in spite of the latter's short-coming of not considering the recruitment of mercenaries as an act of aggression, and of Security Council resolution 161 (1961) relating to the crisis in the Congo. Other pertinent international instruments were The Hague Convention concerning the rights and duties of neutrals in war on land, in which the recruitment in a neutral country of forces for parties to an armed conflict had been prohibited for the first time, the 1923 General Treaty of Peace and Amity between the Central American States, and the Pan American Convention on Maritime Neutrality (Havana, 1928). As to doctrine, a clear distinction had been established at the beginning of the century between the active participation of a

(Mr. Gonzalez Galves, Mexico)

State in the engagement of mercenaries on its territory and the action of an individual who left his country to fight in an armed conflict.

37. As matters stood, it was clear that States were in agreement that measures should be adopted to prohibit the recruitment, use, financing and training of mercenaries. First, however, answers were needed to two questions: one, whether it was necessary to draw up a convention for the purpose and, two, what the definition of a mercenary should be and what consequences the definition had. There was no doubt, for instance, that the term mercenary was applicable in the case of the conflicts in the Congo, Angola and Rhodesia, but he wondered whether the Swiss Guards at the Vatican were not mercenaries, whether so-called "volunteers" would be excluded from the definition, whether it would be right to penalize countries which permitted recruitment of mercenaries for wars regarded as just and whether the general prohibition on the use of mercenaries applied to aliens taking part in a war against colonialism. In the Diplock report published in Great Britain some years earlier, it had been pointed out that no definition of a mercenary which required proof positive of his motivation would be practicable.

38. In view of those considerations, his delegation had reservations concerning the scope of article 47 of the Additional Protocol I to the Geneva Conventions and, without wishing to diminish its importance as the most recent negotiated and universally applicable definition, considered that it was not adequate as a solution of the problem. That definition, by excluding both alien volunteers and advisers and combatants from the armed forces of States which were not parties to the conflict, applied as the primary criterion for classifying a person as a mercenary, the subjective interest of personal gain and the material reward promised, elements which were difficult, if not impossible, to prove. As to the scope of the article, to deprive a combatant of his rights as such and of the right to the status of prisoner of war violated several principles of international humanitarian law: first, the principle of the primacy of humanitarian considerations over the interests of war was violated; secondly, the general principle that persons rendered hors de combat should be protected and treated humanely was violated, and finally, a discriminatory criterion was set up by basing the definition of mercenary on the desire for personal gain and excluding the possibility of nationals of the parties to the conflict being motivated by the same desire. In the circumstances, if a convention on the subject was to be drafted, those criteria would have to be modified and a definition of mercenary established which covered all categories and avoided any erroneous classification.

39. He proposed that the Sixth Committee should be constituted as a plenipotentiary conference for the purposes of drafting the convention or, alternatively, that an ad hoc committee should be set up for that purpose. He noted that in Mexico appropriate legislation had already been promulgated for punishing acts related to mercenary activity.

40. Mr. VACHATA (Czechoslovakia) noted that the United Nations had dealt a number of times with the activities of mercenaries in international armed conflicts, particularly those involving national liberation movements, and had adopted a

(Mr. Vachata, Czechoslovakia)

number of resolutions on the subject, including General Assembly resolution 2465 (XXIII) concerning the application of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 8 of which stated that the practice of using mercenaries against national liberation and independence movements was a punishable criminal act and that the mercenaries themselves were criminals setting themselves beyond the law. As a provision of international law of universal character which codified humanitarian law, article 47 of Additional Protocol I to the Geneva Conventions of 12 August 1949 concerning the protection of the victims of international armed conflicts, which stipulated that mercenaries were not entitled to the status of combatant or prisoner of war, deserved special mention.

41. Mercenaries were still continuing to put themselves at the service of colonialism, racism and aggression against the interests of developing countries and national liberation movements; they constituted a threat to international peace and security. His delegation had therefore warmly welcomed resolution 34/140 in which the General Assembly had decided to include in the provisional agenda of the thirty-fifth session the item on the drafting of an international convention against the recruitment, use, financing and training of mercenaries. Pursuant to paragraph 3 of that resolution, his Government had submitted its views and comments on the subject in document A/35/366/Add.1.

42. With reference to the proposed draft convention, he suggested that the preamble might be the same as that of resolution 34/140, with the addition of a reference to article 47 of Protocol I of 1977. Thereafter, there would have to be a definition of the term "mercenary", and the definition in article 47, paragraph 2 of Protocol I might be used as a basis for it. The draft convention should also define the obligations of States in the following manner: first, the requirement that the contracting parties should promulgate laws forbidding their nationals to serve as mercenaries or in the armed forces of foreign countries; second, the obligation to promulgate laws declaring the recruitment, training and the use of mercenaries to be offences; third, the obligation to prohibit the use of mercenaries in international armed conflicts pursuant to article 2 of the Geneva Convention of 12 August 1949 and article 1, paragraph 4 of Protocol I, under which international armed conflicts were deemed to include those involving the struggles of peoples against colonial domination, foreign occupation and racist régimes in the exercise of their right to self-determination enshrined in the United Nations Charter and the Declaration on Principles of International Law concerning friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; fourth, the obligation to prohibit the recruitment of mercenaries in the territories of the contracting parties and the recruitment of foreign armed forces of which mercenaries were members; fifth, the obligation to prohibit the transit of mercenaries; and, finally, the obligation to prohibit the financing of mercenaries. The draft convention should also contain a provision on depriving mercenaries of the status of combatants or prisoners of war. A solution would also have to be found to the problem of jurisdiction with respect to prosecutions for offences connected with the use of mercenaries and to the settlement of any disputes concerning that question. Finally, reference would also have to be made to the problem of extradition.

(Mr. Vachata, Czechoslovakia)

43. In his delegation's view, the Sixth Committee, in the framework of its functions with regard to the codification and progressive development of international law, was the appropriate forum for drafting the text of the convention. It hoped that the resolution to be adopted on the subject would embody the decision to include that item in the agenda of the thirty-sixth session of the General Assembly.

The meeting rose at 1 p.m.