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Chairman: Mr. KOROMA (Sierra Leone)

later: Miss OLIVEROS (Argentina)

CONTENTS

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

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 29: DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES: REPORT OF THE SECRETARY-GENERAL (continued) (A/35/366 and Add.1, 2 and 3)

1. Mr. KHERAD (Afghanistan) said that his country was fully aware that a sound legal instrument, drawn up by the international community, was needed to combat the activities of mercenaries. Afghanistan followed a policy of peaceful coexistence and non-alignment, wanted to maintain friendly relations with all peace-loving countries, especially its neighbours, and continued to support the national liberation movements against colonialism, racism and apartheid. It therefore endorsed the proposal by Nigeria and other African countries that effective international measures should be taken to outlaw the use, recruitment, financing and training of mercenaries.
2. In recent years, the struggle of peoples for their freedom and social transformation had met with considerable success, in Asia as in Africa and Latin America. Dismayed by the prospect of the disappearance of the last bastions of colonialism and the elimination of racism and apartheid, the colonialists had not shrunk from providing support to reactionary circles in regions of strategic, economic and political importance in order to impede development.
3. The attainment of independence marked not only the end of a lengthy struggle, but also the beginning of a new and difficult battle, because the reactionaries tried to regain lost positions and did everything possible to create an atmosphere of tension, inciting acts of aggression against recently independent States and generating disputes among them.
4. Mercenarism was a neo-colonialist instrument used by some Powers to promote their aggressive intents. The use of mercenaries against national liberation movements and sovereign States was a violation of the basic principles of international law. It was also a threat against the very existence of newly independent countries, and it seriously jeopardized international peace and security. It was therefore urgent that the United Nations should prepare an instrument outlawing mercenary activities.
5. The General Assembly and Security Council had condemned mercenarism in a number of resolutions and, according to the Definition of Aggression adopted by the Assembly in 1974, the use of mercenaries to attack sovereign States was an act of aggression.
6. The question of mercenaries had also been discussed at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held at Geneva from 1974 to 1977. Article 47 of Additional Protocol I to the Geneva Conventions of 1949 established that a mercenary was not entitled to combatant or prisoner-of-war status. Mention should

(Mr. Kherad, Afghanistan)

also be made of the principles and rules embodied in the OAU Convention for the Elimination of Mercenaries in Africa, the declarations and recommendations of the International Commission of Enquiry on Mercenaries convened at Luanda in June 1976, and the 1978 International Conference on Mercenarism, together with the conferences of the non-aligned countries at Cairo in 1964, Colombo in 1976 and Havana in 1979.

7. Although mercenarism had been called a crime and condemned for that reason in various resolutions adopted by international and other bodies, mercenaries continued to be used extensively against a number of sovereign countries, including Afghanistan. After the victory in April of the national and democratic Revolution, which was designed to eliminate the causes of economic and social backwardness, several Powers, anxious to preserve their interests in the region and the country, had developed hostile stratagems and hatched conspiracies against the Democratic Republic of Afghanistan, inciting and supporting mercenaries for that purpose. The territory of some neighbouring countries, with which Afghanistan wanted to maintain friendly relations, was being used to train mercenaries, while other centres were being established in certain reactionary countries of the region. All such actions amounted to provocation and an attempt to aggravate the situation and increase tyranny throughout the region. The mercenaries thus trained and equipped were causing damage to life and property; the casualties included children, women and elderly persons from among the peaceful population of the border areas.

8. The United Nations was therefore justified in concerning itself with those practices and preparing as soon as possible an international convention on the subject. The aim of the convention should be to maintain and consolidate international peace and security and to apply the principles embodied in such instruments as the Definition of Aggression, the Declaration on the Strengthening of International Security, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the Additional Protocol to the Geneva Conventions.

9. The convention should be based on the principles that mercenarism was a serious international crime and that the use of mercenaries against national liberation movements or sovereign States was an act of aggression, a threat to international peace and security and a crime against humanity. Mercenaries should be regarded as criminals. The convention should also provide for the liability of States which permitted the recruitment of their citizens as mercenaries or any other of the outlawed activities in their territory.

10. States must undertake to adopt the necessary legislative measures to punish those guilty of mercenarism.

11. Mr. KUMI (Ghana), after referring to the deep concern of the international community at the increasing spate of mercenary activities all over the world, especially in Africa, observed that such activities were aimed, not only at subverting and destabilizing Governments, but more often than not at undermining the national liberation movements of peoples struggling to exercise their right

(Mr. Kumi, Ghana)

to self-determination, a right enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States.

12. Mercenarism was one of the oldest and most deplorable institutions of mankind. Mercenaries had been used throughout history by rulers against their peoples or by one State against another.

13. At the regional level, OAU had followed up its condemnation of the use of mercenaries in 1964 with the adoption in 1977 of the Convention for the Elimination of Mercenarism in Africa. Similar condemnation had been expressed by the International Commission established by Angola in the Luanda Declaration of 10 June 1976 and by the conferences of non-aligned countries.

14. At the international level, mention should be made of Security Council resolutions 239 (1967), 405 (1977) and 419 (1977), together with various resolutions of the General Assembly, which condemned mercenary activities against Member States. Thanks to the initiative of Nigeria, the Assembly had adopted resolution 34/140, of 14 December 1979, in which it had decided to consider the drafting of an international convention against the recruitment, use, financing and training of mercenaries. In the light of the favourable response from Member States, it was the view of his delegation that sufficient groundwork had been covered to enable the Committee to take an early decision on the subject.

15. His delegation had the following comments to make regarding the nature and scope of the convention: (a) it should contain a widely accepted definition of mercenarism that took into account the OAU Convention and the Additional Protocol to the Geneva Conventions; (b) mercenarism should be regarded as an international crime; (c) liability should be established in all cases, a clear distinction being drawn between liability of individuals and that of States as subjects of international law; (d) the doctrine of sovereignty of States should not be used as a shield to protect offenders; (e) adequate machinery should be envisaged to ensure co-operation among States; (f) mercenaries should not be regarded as combatants or given the treatment of prisoners of war.

16. His delegation joined with other delegations in recommending that a committee should be set up to draft the convention.

16a. Miss Oliveros (Argentina) took the Chair.

17. Mr. NIZIGAMA (Burundi) said that, of all the crimes confronting the international community in recent years, mercenarism seemed to have been particularly widespread in the African continent. The resurgence of mercenary activities in Africa in the past 20 years was directly related to the process of decolonization and independence. The principal aim of such activities had been to teach a lesson to young Governments whose only offence was that their development programmes were not in keeping with the interests of particular Powers. In addition to destabilizing Governments by fomenting civil war and the resultant political and economic chaos, the services of mercenaries had been used to suppress national liberation movements in the vain hope of perpetuating colonialism and apartheid.

(Mr. Nizigama, Burundi)

18. OAU, whose members had with increasing frequency been victims of mercenarism, had adopted a regional convention to eradicate that evil. On the initiative of Nigeria, the problem had now been brought before the international community as a whole. In the observations and comments of Governments, as in the Committee's discussions, mercenary practices were unanimously censured and condemned.

19. The individual responsibility of the mercenary did not appear to raise any serious difficulties; but matters were more complicated in cases where the mercenary was a juridical person or when attempts were made to establish the responsibility of the State which recruited, financed, incited or protected mercenaries, or of the State which offered them transit facilities. In his delegation's opinion, that was the crucial question which the convention must resolve if it was to be effective.

20. Generally speaking, national laws designed to prevent or punish mercenarism merely regulated the activities of nationals of the country concerned on its own territory, and as a result no responsibility was accepted for activities undertaken outside that territory. As a result, a mercenary, after participating in the perpetration of crimes, could unconcernedly return to his own country, and sometimes even to a hero's welcome. In the name of the law, through inertia or omission, mercenary practices were countenanced. The situation was quite different when the mercenary was taken prisoner by the State in whose territory he had been operating. However, experience showed that some of the States of origin of mercenaries, with the help of the press, pleaded for a certain measure of indulgence and even invoked humanitarian law which the mercenary himself, in his reprehensible acts and behaviour, had failed to respect.

21. The conduct of those States was cynical and immoral. By encouraging crime and protecting the criminals they were insulting and ridiculing the victims of mercenary activities.

22. His delegation believed that a convention was urgently needed and that an ad hoc committee should be set up at the present session to prepare the draft. That committee should immediately embark on the task of elaborating an effective legal instrument.

23. Mr. SAIGNAVONGS (Lao People's Democratic Republic) said that no proof was needed of the criminal nature of mercenary activities which violated the principles of international law and of the Charter of the United Nations, and threatened international peace and security. As such they had been condemned by the United Nations and other international bodies, notably OAU and the Sixth Conference of Heads of State or Government of the Non-Aligned Countries.

24. His delegation realized how essential it was for the international community to take appropriate measures to put an end to the recruitment, use, financing and training of mercenaries, and it therefore welcomed the Nigerian proposal for the elaboration of an international instrument on the subject and believed that the draft already submitted could serve as a basic document for the work. However, in the view of his delegation, the draft was restricted to "conventional" or

(Mr. Saignavongs, Lao People's Democratic Republic)

"traditional" mercenary activities and failed to mention the new, more dangerous, perfidious and pernicious form of such activities - namely, the recruitment of mercenaries from among the refugee populations in order to train them, equip them and send them back to their countries of origin to create unrest, incite the population to rise against the authorities, to sow division among ethnic minorities and to provoke uprisings designed to bring down existing Governments. His delegation hoped that the convention would take that new element into account and would affirm the responsibility both of States which undertook such activities and of any other States which acted as accomplices.

25. His delegation believed that the task of elaborating the convention could be entrusted either to the Sixth Committee or to an ad hoc committee appointed by it.

26. Mr. WAMALWA (Kenya) welcomed the statement by the representative of Nigeria on the topic under consideration and said that it reflected his own delegation's concerns. The proposed convention would be a necessary complementary measure to the recent Convention on the Taking of Hostages and the 1977 Additional Protocols to the 1949 Geneva Conventions. His country's criminal code prescribed a penalty of life imprisonment for any person who without lawful authority participated in the preparation of any warlike undertaking against any person or group of persons in Kenya.

27. International law had more of a deterrent than a prohibitive effect on the behaviour of States. In the opinion of his delegation, a United Nations convention banning the recruitment, financing and use of mercenaries was highly desirable. However, if the convention was to be effective, nations must be determined to stamp out mercenarism. His delegation hoped that the short-term effect of such a convention in Africa would be to deter the racist régime in South Africa from using mercenaries against the people of Namibia in its quest for freedom, or against the people of South Africa itself in its quest for fairness and equality within that country. The long-term effect of the convention would be to deter any State or group of people from attempting to dislodge legitimate Governments by using mercenaries.

28. All the States of the third world had had to fight in one form or another for their independence, and should forever remain vigilant in order to frustrate any attempt by anyone to subvert their Governments by the use of mercenaries or some other covert method. Long after the proposed convention is adopted, they would have to defend and safeguard their independence and territorial integrity. His delegation abhorred the very concept of mercenarism and called upon all States to subscribe to the proposed convention banning mercenarism and to take the necessary action in their territories to stamp it out. In addition, he supported the proposal by Nigeria that the work of drafting the proposed convention should be entrusted to an ad hoc working group of the General Assembly.

29. Mr. ENKHSAIKHAN (Mongolia) said that mercenaries were one of the main instruments used by the colonial Powers to prolong their direct or indirect domination and exploitation of politically, strategically and economically important areas where the national liberation movements had achieved or were now achieving success in the struggle for national and social liberation.

(Mr. Enkhsaikhan, Mongolia)

30. In keeping with its policy of strengthening international peace and détente and supporting the just struggle of peoples for liberation, his country strongly condemned mercenary activities and fully supported the proposal for drafting an international convention banning the recruitment, use, financing and training of mercenaries. His country, which had first-hand experience of the evils of mercenarism, believed that mercenary activity currently posed a grave threat to the existence of many small, newly independent States and to international peace and security in general. From the legal point of view, mercenarism was a crime against humanity; its use was a gross violation of the fundamental principles of international law.

31. In the past, the question had been considered in several international forums. He was referring in particular to the OAU Convention for the Elimination of Mercenaries in Africa, and the declarations and recommendations of the International Commission on Mercenaries, as well as the resolutions of the United Nations General Assembly and Security Council on the subject.

32. At the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held at Geneva between 1974 and 1977, the international community had taken one of its most significant steps in outlawing mercenarism by adopting, on the initiative of the Nigerian delegation, article 47 of Additional Protocol I to the 1949 Geneva Conventions. Although the definition of "mercenaries" contained in that article was satisfactory, his delegation believed that the wording could be improved and made more precise - for example, by making clearer the distinction between mercenaries and volunteers and by reconsidering paragraph 2 (c) to see whether the words "essentially" or "a party" were imperative in the definition.

33. As a follow-up to that first step in suppressing mercenarism, the Assembly should now take a second step - i.e. it should elaborate an international convention obliging States to enact legislation prohibiting the recruitment, use, financing and training of mercenaries. That obligation had not been included in article 47 of Protocol I owing to the opposition of a number of Western countries. Under his country's Penal Code, the activities of mercenaries and the provision of assistance to mercenaries in Mongolian territory were subject to severe punishment, and Mongolian citizens were prohibited from enlisting as mercenaries. In his delegation's view it was not only the individual mercenaries that should be punished. Responsibility should also be placed on those who armed and employed mercenaries or assisted in any way in the planning and execution of their activities.

34. His delegation took the view that the draft convention submitted by the delegation of Nigeria could serve as a basis for elaborating a convention; and it reserved the right to make more specific remarks on the draft at a later stage. Also, although it considered that the convention should be elaborated by the Committee itself, it would vote for the establishment of an ad hoc working group if a majority of delegations preferred that course.

35. Mr. SMAOUI (Tunisia) congratulated the delegation of Nigeria on its initiative, which had led to inclusion of item 29 in the agenda of the current session. That initiative was proof of the importance that the African countries attached to the identification and adoption of effective measures to put an end to mercenarism.

36. Although mercenary activities had always existed, their reappearance had coincided with the intensification of neo-colonialism. In that connexion, he reminded members of the Committee that the practice of using mercenaries had been condemned by the General Assembly in resolution 2465 (XXIII) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

37. Although the extent of the phenomenon and the relative impunity enjoyed by mercenaries had served chiefly to promote the destabilization strategy of the colonial Powers, mercenarism had also been practised on a lesser scale by other sources of destabilization organized and financed by hegemonist régimes in the third world itself. In principle, his delegation's condemnation was directed at all countries that assisted mercenaries or used them in order to implement their strategies. Mercenarism constituted a flagrant violation of the fundamental principles of the Charter, which was the basis of the political integrity and independence of States.

38. His delegation, which noted with satisfaction that a number of Member States had enacted legislation prohibiting mercenary activities and prescribing punishment for them, had at the same time observed that those practices had become more prevalent. In making that objective comment, he was not suggesting that national laws as such were at fault, but rather that it was fruitless to try to solve an international problem by legislative means at the national level. If the measures to be adopted were to be effective, they must be collective and specific and must involve the entire international community. The only appropriate course was to draft, as soon as possible, an international convention banning the recruitment, use, financing and training of mercenaries. His delegation agreed that that should be assigned to a working group and suggested that the group should, in its work, take into consideration the definition of "mercenary" in article 47 of Additional Protocol I to the Geneva Conventions of 1949, in the OAU Convention for the Elimination of Mercenaries in Africa and in the draft convention submitted by the delegation of Nigeria (A/35/366/Add.1).

39. Miss BERBERI (Sudan) said that her delegation had listened with interest to the comments made on agenda item 29, and thanked the Government of Nigeria for the initiative it had taken at the preceding session of the General Assembly, which had led to adoption of resolution 34/140. The African countries, in particular had been victims of mercenarism; when a wave of independence had swept over the African Continent during the 1950s, a plot directed from outside had been hatched to overthrow newly independent Governments, undermine the economies of the African countries and wipe out their national liberation movements. The remarks made by the representative of Angola could serve as an example.

(Miss Berberi, Sudan)

40. The international community must face the problem raised by mercenarism, which was a crime against humanity, a threat to international peace and security, a conspiracy against the right of the peoples of the world to self-determination and an attempt to maintain tyranny and oppression.

41. In 1976 her country had been the victim of a conspiracy to put an end to its revolution with the aid of mercenaries. Owing to its vigilance, the people of her country had succeeded in crushing the conspiracy.

42. The Sudan had participated in the elaboration of the OAU Convention for the Elimination of Mercenaries in Africa, and it now supported the idea of drafting a convention that would put an end to mercenarism throughout the world. The draft submitted by the Government of Nigeria (A/35/366/Add.1, pp. 10 et seq.) formed a useful basis for such work. The experience of the African countries was also very useful, and it was necessary to bear in mind the work undertaken by the recent Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held at Geneva from 1974 to 1977, which had drafted the definition of the term "mercenaries" contained in article 47 of Additional Protocol I to the Geneva Conventions of 1949.

43. The delegations of Spain, the United Kingdom and France had stated that the term "mercenarism" was foreign to the Spanish, English and French languages. However, most delegations had endeavoured to define acts committed by mercenaries rather than mercenaries themselves. The definition should indicate that the acts in question constituted a crime committed by individuals or States against the stability and sovereignty of another State. An exception should be made in the case of acts by national liberation movements fighting against colonialism and racism and for the right to self-determination; and it should be stated that mercenaries did not enjoy combatant or prisoner-of-war status.

44. State officials responsible for an act of mercenarism should be subject to the penal code of the country in which the offence was committed. States should be obliged to enact legislation condemning mercenarism, and also to permit extradition of mercenaries to another State or to try them themselves. In conclusion, with regard to the question of the procedures to be followed in drafting the international convention, her delegation endorsed the Nigerian delegation's idea that an intergovernmental committee should be established to elaborate a draft text.

45. Mrs. SILVERA NUÑEZ (Cuba) said that the adoption of an international legal instrument to outlaw mercenary activity was an imperative need in the modern age, but was meeting with opposition from powerful forces bent upon excluding legal formulations that might limit their aggressive policies. The propaganda media in some countries were trying to give the world a false and distorted picture of mercenary activity that left out essential features, such as who was paying for

(Mrs. Silvera Nuñez, Cuba)

costly mercenary operations. Certain associations located in a number of countries that were well known provided every kind of facility for the recruitment of mercenaries, with the consent and support of the authorities of the imperialist countries concerned.

46. The political and legal analysis of mercenary activities had to be conducted in the context of an international system still dominated by unjust relations of subordination and subjection, and of the process of national liberation, which mercenary activities were intended to subdue, and against which those activities were introduced and operated. Accordingly, when a country pursued an independent policy, aimed at the recovery or defence of its natural wealth and resources, there at once emerged destabilization plans and economic pressure, and military aggression was plotted through hired intermediaries or mercenaries. It sufficed to recall the attacks against Guinea, Nigeria, Algeria, Burundi, Benin, the former Belgian Congo, Sudan, Sao Tome and Principe, Angola, Ethiopia, Mozambique, Zimbabwe, Namibia and Viet Nam.

47. In April 1961 a military contingent of some 2,000 men, organized, financed, equipped and maintained by the CIA, had carried out an invasion of Cuba with the aim of overthrowing the revolutionary Government. But the attempt had failed, and that episode stood as the first military defeat of imperialism in Latin America. The use of mercenaries had been denounced by the Nicaraguan patriots who overthrew Somoza.

48. At the international level there was a complete rejection of mercenary activity, which was regarded as an international crime. Many resolutions of the General Assembly and the Security Council condemned any State which persisted in allowing or tolerating recruitment of mercenaries for the purpose of overthrowing Governments of Member States of the United Nations. The same view had been expressed by the Organization of African Unity (OAU), the Heads of State of African Governments meeting in Kinshasa in 1967 and in Addis Ababa in 1971, and the summit conferences of the non-aligned countries held at Cairo in 1964, at Colombo in 1976 and at Havana in 1979.

49. The Diplomatic Conference on International Humanitarian Law, held from 1974 to 1977 in Geneva, had adopted an article declaring that a mercenary could not have the status of combatant or prisoner of war. The definition of mercenary agreed on then was incomplete, as the Cuban delegation had pointed out at the time, but it drew a clear distinction between mercenaries and military advisers, who took no direct part in hostilities and were sent to provide services to a foreign army on the basis of agreements between States.

50. Document A/35/366 set forth the view that Cuba considered should be reflected in a future convention on the subject. Cuba had drafted a document entitled "Draft international convention on the prevention and punishment of the crime of mercenary activity", which it had made available to the Nigerian delegation.

51. Mr. DUCHENE (Belgium) said that Belgium unequivocally condemned mercenary activities, and could invoke for that purpose the provisions of the Penal Code and various legal provisions, the most recent of which, dated 1 August 1979, referred to service in a foreign army or force being in the territory of a foreign State. The whole text of the Act concerned was given in the Belgian reply to the Secretary-General, reproduced in document A/35/366.

52. Article 1 of the Act referred to prohibited any recruitment of persons in Belgium for a foreign army or force being in the territory of a foreign State. By virtue of article 2 the King could prohibit 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 prohibited the enlistment of Belgian nationals outside the national territory for a foreign army or force.

53. Although the legal provisions currently in force in Belgium governed matters that would be the subject of a future international convention against the recruitment, use, financing or maintenance of mercenaries, the Belgian Government was prepared to take part in the drafting of such an international convention. However, the draft submitted by Nigeria aroused some misgivings. Firstly, the essential requirement was to define the mercenary activities that were to be covered by an international convention, and the definition must not exceed the limits of the definition included in article 47 of Additional Protocol I to the Geneva Conventions of 12 August 1949. Secondly, the convention to be drafted should define the treatment to be accorded to mercenaries taken prisoner, and such treatment should provide minimum humanitarian protection and safeguards, such as those set forth in paragraphs 1 and 7 of article 75 of the Additional Protocol I to the Geneva Conventions of 1949.

54. Furthermore, the draft convention must be realistic as to the obligations imposed on States in whose territories mercenaries were recruited, and not lay down measures that could not be applied in practice. Although the debate on the question of mercenaries in the Committee might be useful, political and emotional arguments were out of place.

55. The Belgian delegation associated itself with the comments made by the United States delegation concerning draft resolution A/C.3/35/L.12 of the Third Committee, paragraph 7 of which contained legal provisions on the question of mercenaries, and regretted that the legal aspects of the question were being dealt with simultaneously in two different Committees. In conclusion, he said that more Member States should send comments and observations, and the Secretary-General should present a report giving a synthesis of the existing national and international texts.

56. Mr. MAYCOCK (Barbados) said that his delegation had been one of those supporting the Nigerian proposal to ask for inclusion of the subject of mercenaries in the agenda of the thirty-fourth session of the General Assembly, and was also one of the sponsors of resolution 34/140. Mercenary activity was a subject of great concern to the Government and people of Barbados, which had had first-hand experience of the perils it represented. In recent years the political stability of Barbados had been threatened twice through the intervention of mercenary forces. Fortunately, on both occasions, the plots had been foiled with the help of friendly Governments.

(Mr. Maycock, Barbados)

57. Like most of the representatives who had spoken thus far, his delegation considered that an ad hoc committee should be asked to draft an international convention suppressing the recruitment, use, financing and maintenance of mercenaries, and it was ready to co-operate with other delegations in order to ensure the conclusion of a satisfactory convention as soon as possible. His Government wished to be one of the first to accede to such a convention, and hoped that the same unwarranted delays would not arise as those encountered in the attempts to draft conventions designed to counter the activities of international delinquents in other areas. The safety of Heads of State or Government, the security of States, the inviolability of diplomatic and consular premises and of diplomatic agents were threatened by the wanton acts of bands of mercenaries who, carried away by their lust for loot, fell on defenceless and unsuspecting victims. The time had come to take decisive steps.

58. The delegation of Barbados believed that the draft convention submitted by Nigeria provided a satisfactory basis for further work on the subject.

59. Mr. MARDAN (Iraq) said that the trend towards the liberation of oppressed countries and peoples had endangered colonialist and neo-colonialist interests, which had been obliged to resort to the recruitment of mercenaries in order to impose their political solutions by force. The actions of such mercenary armies constituted interference in the internal affairs of States as well as a threat to international peace and security, in direct opposition to the Charter of the United Nations. Many of the resolutions adopted by the Organization of African Unity, the General Assembly and the Security Council had condemned the inhuman acts perpetrated by bands of mercenaries, which posed a threat to newly independent countries and to national liberation movements fighting to free their people from colonialism and exploitation. The final declaration of the Sixth Conference of Heads of State or Government of Non-Aligned Countries had condemned the practice of hiring of mercenaries and had urged States to take all measures to combat it and to ensure that it was eliminated.

60. The Iraqi Criminal Code prohibited and provided severe penalties for the activities of mercenaries. His delegation supported the drafting of an international convention against the recruitment, use, financing and training of mercenaries and, in its opinion, the work carried out in that direction should be guided by the draft convention proposed by Nigeria, as well as by the relevant resolutions and conventions.

61. Mr. RIERA (Panama) said that the age-old phenomenon of the mercenary, who leased his fighting ability to the highest bidder, had existed throughout history. However, it had become obvious and had acquired clearly defined characteristics towards the end of the fourteenth century, when the fighting between the Italian republics and the signorie of the early Renaissance had become particularly intense. As the nationalities and organization of large States had become crystallized, the mercenary phenomenon as such had disappeared, re-emerging sporadically, but without its former distinctness. Mercenaries had again acquired importance, when the colonies established by the great empires had begun to claim for themselves the

(Mr. Riera, Panama)

benefits of their wealth and the right to determine their future without foreign interference.

62. Compared with the mercenary period of the Renaissance, current mercenary practices were more reprehensible because of their complexity and international ramifications. In modern times, that bane of history took the form of extra-continental gangs, veritable multinational death-dealing corporations, which endangered the peace and security of nations. That was particularly true in central and southern Africa, where mercenaries spear-headed the activities of Governments, for example, the Pretoria régime, and of the large international consortia having economic interests in the area.

63. The United Nations had demonstrated its concern over the activities of mercenaries and, in resolutions 2395 (XXIII), 2465 (XXIII), 2548 (XXIV), 2708 (XXV) and 3103 (XXVIII), the General Assembly had referred to the activities of mercenaries as criminal acts which should be punished as such. The Security Council had adopted the same position in resolutions 239 (1967), 405 (1977) and 419 (1977), in which it condemned any State which persisted in permitting or tolerating the recruitment of mercenaries and the provision of facilities to them, with the objective of overthrowing the Governments of States Members of the United Nations and in which it called for the adoption of measures to prohibit any manifestation of such activities. Mention should also be made of Additional Protocol I to the Geneva Conventions of 12 August 1949 concerning the protection of victims of international armed conflicts. Article 47 of Additional Protocol I, which contained provisions concerning mercenaries, stipulated that they should not be considered as either combatants or prisoners of war.

64. His delegation was especially interested in strongly denouncing the activities of mercenaries and in calling for their complete eradication. That interest stemmed from the report of the Security Council Special Mission to Benin, which had been headed by Ambassador Jorge Illueca. That report, which was contained in document S/12294 and in the annexes thereto, revealed the proportions and complexity of current mercenary activities: recruitment offices, special courses, prior military training, abundant supplies of money and a logistic system as modern as it was costly, activities which automatically required extraordinary support forces.

65. The attack carried out by mercenaries against Cotonou, in the People's Republic of Benin, on 16 January 1977 could not be explained simply by the internal rivalry of political groups; it was a symbol of modern times, of what had occurred and what might occur in many countries - especially in the small countries, which fell prey to the greed and interests of the large countries - when their Governments fought for independence, progress and freedom from foreign domination.

66. His delegation felt that an intergovernmental working group should be established to formulate definitions, concepts and fundamental principles for an international convention against the recruitment, use, financing and training of mercenaries. That task should be completed before the relevant debate in the Sixth Committee, it being understood that the working group should submit its results fairly soon because of the urgency of the subject.

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67. Mr. BASALEH (Democratic Yemen) said that his delegation had taken note with interest of the report of the Secretary-General on the drafting of an international convention against the recruitment, use, financing and training of mercenaries and of the replies received from Governments, which were contained in that report. Democratic Yemen had always condemned the activities of mercenaries. Its 1976 Criminal Code, in particular articles 94 and 95, provided severe penalties for all crimes against the security of peoples and the sovereignty and independence of States perpetrated through the use of armed bands and for the recruitment, financing, training and provision of assistance in transit to such bands.

68. The practice of hiring mercenaries was closely connected to colonialism and was in fact its last, desperate effort to protect its interests, to continue to exploit people and to combat national liberation movements. That practice endangered the principle of non-interference in the internal affairs of States and the principles of friendship and co-operation among peoples.

69. Africa was the preferred terrain for the activities of such international bands, which laid waste to its land and destroyed its people, but Africa was fully aware of the threat that scourge posed to its efforts to achieve progress and independence. The African countries had thus pooled their efforts to combat it in so far as possible and had adopted the OAU Convention for the Elimination of Mercenaries in Africa. However, that instrument's field of application, like that of many OAU declarations and resolutions, was limited to the region. The only way to eradicate the practice of hiring mercenaries was to draft an international convention to which all States would accede. The draft convention proposed by Nigeria in document A/35/366/Add.1 offered a good basis for the future elaboration of such an instrument.

The meeting rose at 5.15 p.m.