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

Note verbale dated 17 August 1981 from the Permanent Representative
of Mongolia to the United Nations addressed to the Secretary-General

The Permanent Representative of the Mongolian People's Republic to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to transmit to him the views and comments of the Government of the Mongolian People's Republic on the question of the drafting of an international convention against the recruitment, use, financing and training of mercenaries in connexion with General Assembly resolution 35/48. It would be appreciated if the comments could be distributed as an official document of the General Assembly under item 115 of the provisional agenda.

* A/36/150.

ANNEX

VIEWS AND COMMENTS OF THE GOVERNMENT OF
THE MONGOLIAN PEOPLE'S REPUBLIC ON THE
QUESTION OF DRAFTING OF AN INTERNATIONAL
CONVENTION AGAINST THE RECRUITMENT, USE,
FINANCING AND TRAINING OF MERCENARIES

1. The disintegration of the colonial system of imperialism, which has been accelerated since the adoption in 1960 of the historic United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples, is being met with frantic resistance of the colonialist and other reactionary forces, which are trying to prolong their direct or indirect domination and exploitation of the politically, strategically and economically important areas throughout the world, and especially in the south of the African continent. One of the main instruments in such resistance is the increased use of mercenaries - the so-called dogs of war, which have already been used in Benin, the Comoros, Congo, Zaire, Zimbabwe etc.
2. Following her policy of principle directed at strengthening international peace and detente, supporting the just struggle of peoples for national and social liberation, the Mongolian People's Republic strongly condemns the use of mercenaries and all other means employed by imperialism and other reactionary forces to halt the process of national and social liberation of peoples. Mercenarism represents a grave threat to the very existence of many newly independent, mostly small States and to international peace and security in general. Like slavery, piracy, genocide, apartheid, mercenarism is recognized as an international crime against mankind and constitutes gross violation of such fundamental principles of contemporary international law as the right of peoples to self-determination, sovereignty, independence and territorial integrity, non-use of force and non-interference in the internal affairs of States.

For these reasons the Government of the Mongolian People's Republic fully supported the timely initiative of Nigeria and other States to draft an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and expressed its interest in serving in the Ad Hoc Committee entrusted to draft such a convention.

3. Mongolia, which would be celebrating this year the 60th anniversary of the triumph of people's revolution, was in fact one of the first countries in the world to have liberated herself from colonial yoke and embarked upon the non-capitalist, i.e. less painful and at the same time more rapid path of social development. In the first years of the revolution, the Mongolian people had encountered frantic resistance of the remnants of the former feudal lords, supported by imperialist and other reactionary forces from abroad. In the 1920's and early 1930's, the internal and external enemies of the people hired, financed, equipped and backed foreign armed bands and assassins in order to overthrow the People's Government and restore the old colonial and feudal regime. Thus for example in the early 1920's imperialist and militarist circles in the Far East hired the remnants of the Russian White Guard units to restore colonial domination over Mongolia and, after the triumph of the people's revolution, - to topple its legitimate Government. The Mongolian Government, having liquidated these bands, had prosecuted or extradited the mercenaries as common criminals.

4. The illegality of the use of mercenaries and of the institution of mercenarism was clearly established and reaffirmed in numerous important international instruments both at regional as well as global levels. Thus for example the 1977 Convention for the elimination of mercenarism in Africa, adopted by the

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Organization of African Unity represented the first important regional measure to fight mercenarism. The declarations and recommendations of the International Commission on Mercenaries, convened in Luanda in 1976 are of great practical importance because the institution of mercenarism itself was put on trial and the Governments which permitted or tolerated the recruitment, training, financing and making use of mercenaries were recognized as accomplice and accessories and were to bear their share of responsibility.

5. On the global level, the General Assembly and the Security Council of the United Nations had adopted numerous resolutions namely resolutions 2395 (XXIII), 2465 (XXIII), 2548 (XXIY), 3101 (XXYIII), 32/14, 34/120, 35/48 and Security Council resolutions 239 (1967), 405 (1977) and 419 (1977) in which the practice of using mercenaries was declared as constituting a criminal act. According 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 and the definition of Aggression approved by the General Assembly of the United Nations in 1974 the large-scale use of mercenaries constitutes an act of aggression.

6. The adoption of article 47 of the additional Protocol I to the 1949 Geneva conventions for the protection of war victims defining the notion "mercenary" and depriving the mercenaries of the right to be treated as combatants were the first major conventional steps in outlawing all mercenary activities.

7. It is the view of the Mongolian People's Republic that having made the initial steps in suppressing mercenarism, the international community should now make the next logical step - to codify the principles and norms of conduct of States viz a viz mercenaries and mercenarism.

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8. It is the view of the Government of the Mongolian People's Republic that a precise and comprehensive definition should be given to the terms "mercenary" and "mercenarism" and that a clear distinction should be drawn between the activities of the outlawed mercenaries and the lawful and legitimate activities of international volunteers in assisting national liberation movements and protecting States against acts of aggression. In this connection the definition given in paragraph 2 of article 47 of the above-mentioned additional Protocol I could be taken as a basis for such elaboration. A clear distinction should also be made between individual criminal responsibility of mercenaries and those of States that encourage in every way, tolerate such illegal activities on their territory or of their nationals or do not prevent them from offering such "services".
