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AD HOC COMMITTEE ON THE DRAFTING OF AN  
INTERNATIONAL CONVENTION AGAINST THE  
RECRUITMENT, USE, FINANCING AND  
TRAINING OF MERCENARIES  
(25 January-19 February 1982)

DRAFT INTERNATIONAL CONVENTION AGAINST THE  
ACTIVITIES OF MERCENARIES

Nigeria: revised text of articles 1, 2, 7, 11 and 15  
contained in the working paper submitted by Nigeria  
(A/AC.207/L.3)

Article 1

Definition of a mercenary

For the purpose of this convention, a mercenary is a person who:

- (a) Is specially recruited locally or abroad in order to participate in an armed conflict;
- (b) Engages in an act of aggression against sovereign States;
- (c) Does in fact take part in the armed conflict or act of aggression;
- (d) Is motivated to take part in an armed conflict or act of aggression by the desire for private gain and, is promised by or on behalf of a party to the armed conflict material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the regular armed forces;
- (e) Is neither a national of the State in which the armed conflict or hostility is taking place nor a resident of the territory controlled by a party to the conflict or hostility;
- (f) Is not a member of the regular armed forces of a party to the conflict or hostility; and

(g) Has not been sent by a State which is not a party to the conflict or hostility or on official duty as a member of its armed forces.

Article 2

Definition of mercenarism

1. The crime of mercenarism is committed when a mercenary as defined in article 1 of this Convention, with the aim of opposing by threat or use of force against the territorial integrity of another State or suppressing the legitimate aspirations of national liberation movements, manifests by overt acts any of the following:

(a) When an individual, group or association:

- (i) Recruits, uses, finances, or trains another or group of persons for the purpose of becoming a mercenary;
- (ii) Advertises, prints or causes to be advertised any information regarding subparagraph (a) (i) of this article.

(b) In the case of a body corporate or a State:

Allows or tolerates the organization, recruitment, use, financing or training of mercenaries within its territory or control or affords facilities for transit, transport or other operation of mercenaries.

2. (a) Any individual, group or association who:

- (i) Attempts to commit any act of mercenarism (hereinafter referred to as the crime) mentioned in article 2, paragraph 1, above,
- (ii) Participates as an accomplice of any one who commits or attempts to commit the crime,

shall be deemed to have committed such crime for the purpose of this Convention.

(b) Any body corporate or State which:

- (i) Attempts to commit any act of mercenarism mentioned in article 2, paragraph 1, above,
- (ii) Participates as an accomplice of any one who commits or attempts to commit the crime,

shall be deemed to have committed such crime for the purpose of this Convention.

3. The crime if committed shall be deemed to be a crime against the peace and security of a State.

Article 7

Responsibility of States

When a State Party is accused by virtue of the provisions of article 2 and article 8 for acts or omissions declared to be an offence under the present Convention, any State Party to the present Convention may invoke the provision of this Convention against the offending State before any competent body, international organization or tribunal.

Article 11

Judicial guarantee

Any person or group of persons or a State regarding whom proceedings are being carried out in connexion with any of the crimes set out in article 2 of this Convention shall be entitled to all the judicial guarantees granted by the law of the State exercising jurisdiction.

Article 15

Action for damages reparation

1. A State Party which suffers damage or whose natural or juridical person suffers damage, may present to another State Party which refuses to extradite or prosecute in accordance with provisions of this Convention, a claim for damages or reparation as the case may be against that other State Party.
  2. The claim for damages or reparation may be presented to other States Parties that have refused to extradite or prosecute jointly or severally.
  3. However, a claim for damages or reparation shall be presented through appropriate diplomatic channels or to any competent international organization or tribunal.
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