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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

Report of the Sixth Committee

Rapporteur: Mr. Carlos VELASCO MENDIOLA (Peru)

I. INTRODUCTION

1. The item entitled "Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries" was included in the provisional agenda of the forty-third session of the General Assembly pursuant to paragraph 10 of resolution 42/155 of 7 December 1987.
2. At its 3rd plenary meeting, on 23 September 1988, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 1/ which was introduced by the Vice-Chairman of the Ad Hoc Committee at the 22nd meeting of the Sixth Committee, on 26 October 1988.

1/ Official Records of the General Assembly, Forty-third Session, Supplement No. 43 (A/43/43).

4. The Committee also had before it the following communications:

(a) Letters dated 5 and 11 January, 10 February, 2, 9, 10, 25 and 29 March, 12, 18, 27 and 28 April, 2, 11, 12 and 25 May, 2, 9, 15, 27 and 28 June, 14 July, 3, 8 and 25 August, 1, 7, 26 and 27 September, 4 and 21 November 1988 from the representative of Pakistan addressed to the Secretary-General (A/43/81-S/19411, A/43/82-S/19412, A/43/84-S/19422, A/43/136-S/19497, A/43/204-S/19582, A/43/211-S/19606, A/43/212-S/19607, A/43/257-S/19689, A/43/269-S/19716, A/43/270-S/19717, A/43/299-S/19766, A/43/300-S/19767, A/43/301-S/19768, A/43/315-S/19795, A/43/335-S/19843, A/43/342-S/19850, A/43/349-S/19859, A/43/359-S/19879, A/43/364-S/19890, A/43/378-S/19905, A/43/391-S/19925, A/43/400-S/19932, A/43/409-S/19941 and Corr.1, A/43/412-S/19945, A/43/428-S/19964, A/43/440-S/19984, A/43/465-S/20019, A/43/503-S/20087, A/43/515-S/20101, A/43/577-S/20160, A/43/585-S/20167, A/43/598-S/20180 and Corr.1, A/43/641-S/20201, A/43/649-S/20204, A/43/783-S/20260, A/43/848-S/20282 and A/43/849-S/20283);

(b) Letters dated 10, 17 and 26 February, 1, 2 and 16 March, 6, 7 and 19 April, 28 June, 6, 7 and 21 July, 8 August and 11 November 1988 from the representative of Afghanistan addressed to the Secretary-General (A/43/134-S/19494, A/43/156-S/19517, A/43/175-S/19546, A/43/187-S/19566, A/43/190-S/19575, A/43/224-S/19640, A/43/290-S/19744, A/43/291-S/19745, A/43/293-S/19750, A/43/294-S/19751, A/43/322-S/19812, A/43/431-S/19969, A/43/447-S/19990, A/43/451-S/19996, A/43/474-S/20044, A/43/511-S/20098 and A/43/804-S/20270);

(c) Letter dated 29 September 1988 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General, transmitting the final documents adopted by the Conference of Foreign Ministers of the Movement of Non-Aligned Countries held at Nicosia from 5 to 10 September 1988 (A/43/667-S/20212);

(d) Note verbale dated 13 September 1988 from the representative of Mongolia addressed to the Secretary-General (A/C.6/43/5).

5. The Sixth Committee considered the item at its 22nd to 24th, 46th to 48th, and 51st meetings, held from 26 to 28 October, and on 22, 23, 25 and 29 November 1988. The summary records of those meetings contain the views of the representatives who spoke on the item (A/C.6/43/SR.22-24, 46-48 and 51).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/43/L.13

6. At the 49th meeting, on 25 November, the representative of Nigeria introduced a draft resolution (A/C.6/43/L.13) sponsored by Algeria, Cuba, Egypt, Ethiopia, the German Democratic Republic, Ghana, Guinea, India, Kenya, the Lao People's Democratic Republic, Liberia, the Libyan Arab Jamahiriya, Madagascar, Mali, Mexico, Nicaragua, Nigeria, Romania, Rwanda, Suriname, Togo, Tunisia, Uganda, the Ukrainian Soviet Socialist Republic, Viet Nam, Yugoslavia, Zaire and Zambia, later joined by Angola, Benin, Burundi, Mongolia, Morocco, Mozambique, Panama, the Philippines, Senegal, the Sudan, the Syrian Arab Republic and Zimbabwe.

7. The Committee had before it a statement submitted by the Secretary-General (A/C.6/43/L.19) on the programme budget implications of draft resolution A/C.6/43/L.13.

8. At the 51st meeting, the Committee voted on draft resolution A/C.6/43/L.13 as follows:

(a) Preambular paragraph 5 was adopted by a vote of 100 to 9, with 15 abstentions;

(b) Draft resolution A/C.6/43/L.13 as a whole was adopted by a vote of 122 to none with 3 abstentions (see para. 10).

9. Statements on a point of order were made by the representatives of the Federal Republic of Germany and Ethiopia. Statements in explanation of vote after the vote were made by the representatives of Greece (on behalf of the twelve States members of the European Community), Israel, Sweden (on behalf of the Nordic countries), the United States of America and Japan. The representative of Suriname made a statement on the draft resolution.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Ad Hoc Committee on the Drafting of an
International Convention against the Recruitment,
Use, Financing and Training of Mercenaries

The General Assembly,

Recalling its resolutions, particularly resolutions 2395 (XXIII) of 29 November 1968, 2465 (XXIII) of 20 December 1968, 2548 (XXIV) of 11 December 1969, 2708 (XXV) of 14 December 1970 and 3103 (XXVIII) of 12 December 1973, and its resolution 1514 (XV) of 14 December 1960, as well as Security Council resolutions 405 (1977) of 14 April 1977, 419 (1977) of 24 November 1977, 496 (1981) of 15 December 1981 and 507 (1982) of 28 May 1982, in which the United Nations denounced the practice of using mercenaries, in particular against developing countries and national liberation movements,

Recalling in particular its resolution 42/155 of 7 December 1987 by which it decided to renew the mandate of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries,

Bearing in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States

and self-determination of peoples, enshrined in the Charter of the United Nations and developed in 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/

Bearing in mind also that every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into another State,

Recognizing that the recruitment, use, financing and training of mercenaries by States is contrary to fundamental principles of international law, such as the duty to refrain from the threat or use of force, non-intervention in the internal affairs, territorial integrity or political independence of other States, and that it seriously impedes the process of self-determination of people struggling against colonialism, racism and apartheid and all forms of foreign domination,

Bearing in mind the pernicious impact that the activities of mercenaries have on international peace and security,

Considering that the progressive development and codification of the rules of international law on the activities of mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

Welcoming the wide and effective participation of members of the Ad Hoc Committee in the work of the Committee and the participation of a large number of observers in the work of the Ad Hoc Committee,

Taking into account the work done so far by the Ad Hoc Committee,

Reaffirming the need for the conclusion, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

1. Takes note of the report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries; 3/

2. Decides to renew the mandate of the Ad Hoc Committee with a view to completing as soon as possible a draft international convention against the recruitment, use, financing and training of mercenaries;

3. Requests the Ad Hoc Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter III of its report entitled "Third

2/ Resolution 2625 (XXV), annex.

3/ Official Records of the General Assembly, Forty-third Session, Supplement No. 43 (A/43/43).

revised consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries" as a basis for future negotiation on the text of the proposed international convention;

4. Invites the Ad Hoc Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and comments expressed at the fortieth, 4/ forty-first, 5/ forty-second 6/ and forty-third 7/ sessions of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the Ad Hoc Committee;

5. Decides that the Ad Hoc Committee shall hold its eighth session early in 1989;

6. Also decides that the Ad Hoc Committee shall accept the participation of observers of Member States, including participation in the meetings of its drafting and working groups;

7. Requests the Secretary-General to provide, on a priority basis, the Ad Hoc Committee with any assistance and facilities it may require to hold its eighth session early in 1989;

8. Reaffirms the importance that pre-session consultations among the members of the Ad Hoc Committee and other interested States may have in facilitating the smooth conduct of its work towards the fulfilment of its task, inter alia, as regards the composition of the Bureau and the organization of work;

9. Invites the Ad Hoc Committee to make every effort to submit its final report containing a draft international convention against the recruitment, use, financing and training of mercenaries to the General Assembly if possible at its forty-fourth session;

4/ Ibid., Fortieth Session, Sixth Committee, 13th to 17th, 44th and 48th meetings.

5/ Ibid., Forty-first Session, Sixth Committee, 25th, 26th, 46th and 47th meetings, and corrigendum.

6/ Ibid., Forty-second Session, Sixth Committee, 12th to 15th and 55th meetings, and corrigendum.

7/ Ibid., Forty-third Session, Sixth Committee, 22nd to 24th, 46th to 48th and 51st meetings.

10. Decides to include in the provisional agenda of its forty-fourth session the item entitled "Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".
