

sion in organizing regional seminars including, in particular, the Asian-African Legal Consultative Committee, the Council for Mutual Economic Assistance and the Organization of American States, reaffirms the importance of this co-operation and recommends that the Commission should continue to maintain such close co-operation;

(b) Welcomes the additional initiatives being undertaken by the Commission and its secretariat to collaborate with other organizations and institutions in the organization of regional seminars;

(c) Expresses its appreciation to Governments and institutions for arranging seminars or symposia in the field of international trade law, in particular the Government of Australia for assisting in the organization of an Asian/Pacific regional trade law seminar and for making available fellowships, and invites such Governments and institutions to supply the secretariat of the Commission with copies of papers or proceedings in connection with these seminars or symposia in order to assist in the planning of future regional seminars;

(d) Invites Governments, relevant United Nations organs, organizations, institutions and individuals to assist the secretariat of the Commission in financing and organizing symposia and seminars;

10. *Recommends* that the United Nations Commission on International Trade Law should continue its work on the topics included in its programme of work;

11. *Reaffirms* the importance of the programme of work of the United Nations Commission on International Trade Law;

12. *Reaffirms also* the importance of the growing role of the International Trade Law Branch of the Office of Legal Affairs of the Secretariat, as the substantive secretariat of the United Nations Commission on International Trade Law, in assisting in the implementation of the work programme of the Commission and takes note with appreciation of its valuable services in the performance of this role;

13. *Requests* the Secretary-General to forward to the United Nations Commission on International Trade Law the records of the discussion at the thirty-eighth session of the General Assembly relating to the report of the Commission on the work of its sixteenth session.<sup>35</sup>

*101st plenary meeting  
19 December 1983*

### **38/135. Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance**

*The General Assembly,*

*Recognizing* that a wide range of international trade contracts contain clauses obligating a party that fails to perform an obligation under the contract to pay an agreed sum to the other party,

*Noting* that the effect and validity of such clauses are often uncertain owing to disparities in the treatment of such clauses in various legal systems,

*Believing* that these uncertainties constitute an obstacle to the flow of international trade,

*Being of the opinion* that it would be desirable for the legal rules applicable to such clauses to be harmonized so as to reduce or eliminate the uncertainties concerning such

clauses and remove these uncertainties as a barrier to the flow of international trade,

*Noting* that the United Nations Commission on International Trade Law has adopted Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance,<sup>36</sup>

*Recognizing* that there are various ways in which the Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance could be implemented by States, and being of the opinion that a recommendation by the General Assembly to States that they should implement the Uniform Rules in an appropriate manner would not prejudice the Assembly from making a further recommendation or taking further action with respect to the Uniform Rules if circumstances so warrant,

*Recommends* that States should give serious consideration to the Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance adopted by the United Nations Commission on International Trade Law and, where appropriate, implement them in the form of either a model law or a convention.

*101st plenary meeting  
19 December 1983*

### **38/136. Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives**

*The General Assembly,*

*Having considered* the report of the Secretary-General,<sup>37</sup>

*Emphasizing* the important role of diplomatic and consular missions and representatives, as well as of missions and representatives to international intergovernmental organizations and officials of such organizations, in the maintenance of international peace and the promotion of friendly relations among States,

*Emphasizing also* the duty of States to take all appropriate steps, as required by international law:

(a) To protect the premises of diplomatic and consular missions, as well as of missions to international intergovernmental organizations;

(b) To prevent any attacks on diplomatic and consular representatives, as well as on representatives to international intergovernmental organizations and officials of such organizations;

(c) To bring the offenders to justice;

*Deeply concerned* about the continued large number of failures to respect the inviolability of diplomatic and consular missions and representatives, and about the serious threat presented by such violations to the maintenance of normal and peaceful international relations, which are necessary for co-operation among States,

*Expressing its sympathy* for the victims of illegal acts against diplomatic and consular representatives and missions as well as against representatives and missions to international intergovernmental organizations and officials of such organizations,

*Convinced* that respect for the principles and rules of international law governing diplomatic and consular relations, in particular those aimed at ensuring the inviolability of diplomatic and consular missions and representatives, is a basic prerequisite for the normal conduct of

<sup>35</sup> *Ibid.*, Thirty-eighth Session, Sixth Committee, 2nd-8th and 59th meetings; and *ibid.*, Sixth Committee, Sessional Fascicle, corrigendum.

<sup>36</sup> *Ibid.*, Thirty-eighth Session, Supplement No. 17 (A/38/17), chap. II and annex I.

<sup>37</sup> A/38/379 and Corr.1 and Add.1-3.

relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations.

*Noting* that only a small number of States have so far, in response to the call by the General Assembly at its thirty-fifth, thirty-sixth and thirty-seventh sessions, become parties to the relevant conventions concerning the inviolability of diplomatic and consular missions and representatives,

*Convinced* that the reporting procedures established under General Assembly resolution 35/168 of 15 December 1980 and further elaborated in Assembly resolutions 36/33 of 13 November 1981 and 37/108 of 16 December 1982 are important steps in the efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

*Desiring* to maintain and further strengthen those reporting procedures,

1. *Takes note* of the report of the Secretary-General;
2. *Strongly condemns* acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations;
3. *Emphasizes* the importance of enhanced awareness throughout the world of the necessity of ensuring the protection, security and safety of such missions, representatives and officials, as well as of the role of the United Nations in this regard;
4. *Urges* States to observe and to implement the principles and rules of international law governing diplomatic and consular relations and, in particular, to take all necessary measures in conformity with their international obligations to ensure effectively the protection, security and safety of all diplomatic and consular missions and representatives officially present in territory under their jurisdiction, including practicable measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions and representatives;

5. *Recommends* that States should co-operate closely through, *inter alia*, contacts between the diplomatic and consular missions and the receiving State, with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to exchange of information on the circumstances of all serious violations thereof;

6. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

7. *Calls upon* States, in cases where a dispute arises in connection with a violation of the principles and rules of international law concerning the inviolability of diplomatic and consular missions and representatives, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General;

8. *Requests*:

(a) All States to report to the Secretary-General as promptly as possible serious violations of the protection, security and safety of diplomatic and consular missions and representatives;

(b) The State in which the violation took place—and, to the extent applicable, the State where the alleged

offender is present—to report as promptly as possible on measures taken to bring the offender to justice and eventually to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and on measures adopted with a view to preventing a repetition of such violations;

9. *Requests* the Secretary-General to circulate to all States, upon receipt, the reports received by him pursuant to paragraph 8 above, unless the reporting State requests otherwise;

10. *Requests* the Secretary-General to invite States to inform him of their views with respect to any measures needed to enhance the protection, security and safety of diplomatic and consular missions and representatives;

11. *Also requests* the Secretary-General, when a serious violation has been reported pursuant to paragraph 8 (a) above, to draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 8 above;

12. *Further requests* the Secretary-General to submit to the General Assembly at its thirty-ninth session a report on the state of ratification of, and accessions to, the instruments referred to in paragraph 6 above, as well as the reports received and views expressed pursuant to paragraphs 8 and 10 above, and invites him to submit any views he may wish to express on these matters;

13. *Decides* to include in the provisional agenda of its thirty-ninth session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives: report of the Secretary-General".

*101st plenary meeting  
19 December 1983*

### **38/137. Drafting of an international convention against the recruitment, use, financing and training of mercenaries**

*The General Assembly,*

*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,<sup>38</sup>

*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, 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 37/109 of 16 December 1982, by which it renewed the mandate of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, composed of thirty-five Member States.

<sup>38</sup> Resolution 2625 (XXV), annex.