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PROVISIONAL VERBATIM RECORD OF THE SEVENTY-SECOND MEETING

Held at Headquarters, New York,
on Monday, 4 December 1989, at 10 a.m.

President:

Mr. GARBA

(Nigeria)

- Adoption of the agenda and organization of work: letter from the Chairman of the Committee on Conferences [8] (continued)
- United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law: report of the Sixth Committee [138]
- Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes: report of the Sixth Committee [139]
- Progressive development of the principles and norms of international law relating to the new international economic order: report of the Sixth Committee [140]

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- Peaceful settlement of disputes between States: report of the Sixth Committee [141]
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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 8 (continued)

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK; LETTER FROM THE CHAIRMAN OF THE COMMITTEE ON CONFERENCES (A/44/341/Add.2)

The PRESIDENT: Document A/44/341/Add.2 contains a letter dated 1 December 1989 addressed to the President of the Assembly by the Chairman of the Committee on Conferences. As members are aware, the Assembly, in paragraph 7 of its resolution 40/243, decided that no subsidiary organ of the General Assembly should be permitted to meet at United Nations Headquarters during a regular session of the Assembly unless explicitly authorized by the Assembly.

As indicated in the letter, the Committee on Conferences has recommended that the General Assembly authorize the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to meet today.

Before proceeding to take a decision on this proposal, I should like to quote from rule 78 of the rules of procedure in regard to proposals before the Assembly:

"As a general rule, no proposal shall be discussed or put to the vote at any meeting of the General Assembly unless copies of it have been circulated to all delegations not later than the day preceding the meeting."

In view of the limited time available and the desire of members to dispose of this item expeditiously, I propose that, with the Assembly's concurrence, we proceed to take a decision on the proposal even though document A/44/341/Add.2 has been circulated only this morning.

If I hear no objections, I shall take it that the Assembly agrees to my proposal.

It was so decided.

The PRESIDENT: May I take it that the General Assembly, bearing in mind that the date of the meeting overlaps with the forty-fourth session of the Assembly, adopts the recommendation of the Committee on Conferences?

It was so decided.

AGENDA ITEMS 138 TO 147 AND 152

UNITED NATIONS PROGRAMME OF ASSISTANCE IN THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW: REPORT OF THE SIXTH COMMITTEE (A/44/761)

MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY, FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN ATTEMPT TO EFFECT RADICAL CHANGES: REPORT OF THE SIXTH COMMITTEE (A/44/762)

PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SIXTH COMMITTEE (A/44/763)

PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES: REPORT OF THE SIXTH COMMITTEE (A/44/764)

DRAFT CODE OF CRIMES AGAINST THE PEACE AND SECURITY OF MANKIND: REPORT OF THE SIXTH COMMITTEE (A/44/765)

REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SECOND SESSION

(a) REPORT OF THE SIXTH COMMITTEE (A/44/723)

(b) REPORT OF THE FIFTH COMMITTEE (A/44/809)

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 (A/44/766)

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-FIRST SESSION: REPORT OF THE SIXTH COMMITTEE (A/44/767)

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

(a) REPORT OF THE SIXTH COMMITTEE (A/44/768)

(b) REPORT OF THE FIFTH COMMITTEE (A/44/830)

REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY: REPORT OF THE SIXTH COMMITTEE (A/44/769)

INTERNATIONAL CRIMINAL RESPONSIBILITY OF INDIVIDUALS AND ENTITIES ENGAGED IN ILLICIT TRAFFICKING IN NARCOTIC DRUGS ACROSS NATIONAL FRONTIERS AND OTHER TRANSNATIONAL CRIMINAL ACTIVITIES: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT WITH JURISDICTION OVER SUCH CRIMES: REPORT OF THE SIXTH COMMITTEE (A/44/770)

The PRESIDENT: I request the representative of Gabon, the Rapporteur of the Sixth Committee, to introduce the reports of the Sixth Committee.

Mr. PAMBOU-TCHIVOUNDA (Gabon), Rapporteur of the Sixth Committee (interpretation from French): I have the honour to present the reports of the Sixth Committee on agenda items 138 to 147 and 152 of the current session of the General Assembly.

First, let me thank the African Group for the honour they conferred upon Gabon, my country, and for the confidence they showed in me in proposing my candidacy for the post of Rapporteur of the Sixth Committee. My gratitude also naturally extends to all the members of the Committee for having been kind enough to endorse the choice of the African Group. I hope that in carrying out my work I shall not have disappointed anyone. I must say that my task was greatly facilitated by the quality of the leadership the Sixth Committee enjoyed throughout the session. I take this opportunity to thank most sincerely all the members of the Committee, especially my colleagues on the Bureau, Mr. Ernesto Martínez Gandra of Argentina and Mr. Vaclav Mikulka of Czechoslovakia for the valuable assistance they gave me, and to congratulate the Chairman of the Committee, Mr. Helmut Tuerk of Austria, on the outstanding way in which he carried out his task.

As is customary, I shall present the reports of the Sixth Committee on agenda items 138 to 147 and 152 in the order of their numbering. However, I should like to depart from tradition for the report which deals with agenda item 144, entitled "Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries". The results achieved on this matter at the present session seemed to me to justify special treatment, and that is why I shall give them priority in my statement.

As members know, it was on the proposal of Nigeria that more than 10 years ago, within the framework of the Sixth Committee, drafting was begun on a convention against the recruitment, use, financing and training of mercenaries. By a fortunate combination of circumstances, it is at a session of the General

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Rapporteur, Sixth Committee)

Assembly presided over by an outstanding personality of that same country that the work of the Sixth Committee on this matter has been crowned with success. Coming from the African continent, which has had to suffer so much from the activities of mercenaries, I wish, Mr. President, to pay tribute to your country, Nigeria, for its courageous initiative, whose favourable outcome is, happily, occurring as the Decade of International Law is beginning, thus laying a new stone in the foundation of international legality - a field that is of particular importance because it relates to the maintenance of peace and security.

I should also like to repeat the praises that were addressed in the Sixth Committee to the members of the successive bureaux of the Ad Hoc Committee which drafted the Convention, to the spokesmen of the regional groups and all delegations which contributed to today's success to which we are paying a tribute today. I am referring particularly to the Chairman and the Vice-Chairman of the Working Group of the Sixth Committee which concluded the work on the draft convention - Mr. Gebre Medhin Hagoss of Ethiopia and Mr. Tullio Treves of Italy.

As indicated in paragraph 10 of the relevant report (A/44/766), the Sixth Committee adopted, without a vote, the draft resolution recommended to the Assembly. I am sure that the Assembly will also adopt it without a vote, thus giving its approval to what certainly represents one of the major accomplishments of this session in the field of law.

I now move on to the introduction of the other reports of the Sixth Committee. As regards agenda item 138, "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law", I call members' attention to the draft resolution contained in paragraph 10 of the relevant report of the Sixth Committee (A/44/761). Under this draft resolution the

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Assembly would authorize the Secretary-General to carry out in 1990 and 1991 the activities planned as part of that Programme. Moreover, it would request him to continue to publicize the Programme and all Member States and interested organizations and individuals to make voluntary contributions towards the financing of the Programme. Finally, it would call on him to study alternative means of making publications of the International Court of Justice available in all the other official languages in addition to French and English within existing appropriations, more specifically its advisory opinions and its decisions, including separate or dissenting opinions.

The Sixth Committee adopted that draft resolution without a vote, and I hope that the Assembly will do so as well.

As regards agenda item 139, concerning international terrorism, the draft resolution contained in paragraph 12 of the relevant report of the Sixth Committee (A/44/762) is the fruit of intensive consultations, and I believe it represents the common denominator of all the positions put forward.

(Mr. Pambou-Tchivounda,
Rapporteur, Sixth Committee)

The preamble to the draft reflects the General Assembly's conviction that a policy of firmness should be adopted in order to put an end to all acts, methods and practices of international terrorism. The preamble also reflects the Assembly's deep concern over the world-wide persistence of acts of international terrorism, including those where States are involved. In the preamble the Assembly would emphasize the growing connection between terrorist groups and drug traffickers, and would insist upon the need for co-operation between States to eliminate the scourge of international terrorism. It would reaffirm the inalienable right to self-determination and independence of all peoples under colonial and racist régimes and other forms of alien domination, and would uphold the legitimacy of their struggle. Finally, the Assembly would emphasize that the drafting of a generally agreed definition of international terrorism would enhance the effectiveness of any action undertaken in this field.

In the operative part of the draft resolution, the Assembly would once again unequivocally condemn as criminal and not justifiable all acts, methods and practices of terrorism wherever and by whomever committed. There is a list of the obligations of States in the struggle against terrorism. The Assembly would urge that efforts be made with a view to the progressive elimination of the causes underlying international terrorism, and would call upon all States to use their political influence to secure the safe release of all hostages and abducted persons. The draft resolution also mentions the work done in this field by the International Civil Aviation Organization and the International Maritime Organization. The Assembly would request the Secretary-General to solicit the views of Member States on the ways and means of enhancing the role of the United Nations in combating international terrorism. In the penultimate paragraph of the draft resolution, the Assembly would state that nothing in the text prejudices the

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Rapporteur, Sixth Committee)

right to self-determination, freedom and independence of peoples forcibly deprived of that right, or their right to struggle legitimately to that end and to seek and receive support.

In the last operative paragraph the Assembly would decide to include this item in the provisional agenda of its forty-sixth session.

I have taken the liberty of presenting this draft resolution at some length because it deals with a question of major importance not only for States and for international peace, but also for the security and tranquillity of all human beings. I hope that the General Assembly, following the example of the Sixth Committee, will adopt it without a vote.

I turn now to agenda item 140, "Progressive development of the principles and norms of international law relating to the new international economic order". Paragraph 8 of the Sixth Committee's report (A/44/763) contains the draft resolution which the Assembly is invited to adopt on this item.

In the draft resolution the Assembly would recommend that the Sixth Committee should consider making a final decision at the forty-sixth session - that is, two years from now - on the question of the appropriate forum within the Committee's framework which would undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of international law in this area.

I recommend this draft resolution to the Assembly for its attention.

I come next to agenda item 141, "Peaceful settlement of disputes between States". The draft resolution which the Sixth Committee recommends to the Assembly for adoption on this item is in paragraph 16 of its report (A/44/764). I shall mention only two of its paragraphs.

(Mr. Pambou-Tchivounda,
Rapporteur, Sixth Committee)

In operative paragraph 1 the Assembly would once again urge all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes. In operative paragraph 2 it would stress the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in this field. I would add that, as the last operative paragraph says, the item will be included in the provisional agenda of the Assembly's 1990 session.

In passing, I should mention that in the English version of the ninth preambular paragraph "1991" should be replaced by "1999".

I recommend this draft resolution to the Assembly for its consideration.

With regard to agenda item 142, "Draft code of crimes against the peace and security of mankind", members will find in paragraph 8 of the Sixth Committee's report (A/44/765) the draft resolution which the Committee recommends to the Assembly for adoption.

In this draft resolution, essentially, the Assembly would invite the International Law Commission to continue its work on the elaboration of the draft code, and would request the Secretary-General to continue to seek the views of Member States on the matter of drafting a statute for international penal jurisdiction.

I recommend this draft resolution also to the General Assembly for its attention.

I turn now to agenda item 143, "Report of the United Nations Commission on International Trade Law on the work of its twenty-second session".

(Mr. Pambou-Tchivounda, Rapporteur,
Sixth Committee)

Paragraph 8 of the Sixth Committee's report (A/44/723) contains a draft resolution, in which the General Assembly would decide, in particular, to convene at Vienna from 2 to 19 April 1991 an international conference of plenipotentiaries charged with drawing up, on the basis of the draft prepared by the United Nations Commission on International Trade Law (UNCITRAL), an international convention on the liability of operators of transport terminals in international trade. The draft resolution, in which the Assembly would, in general, endorse the thrust of current work on international trade law, was adopted by the Sixth Committee without a vote and I hope that it will receive the unanimous approval of the General Assembly.

I now call the Assembly's attention to agenda item 145, "Report of the International Law Commission on the work of its forty-first session". As indicated in paragraph 11 of the relevant report (A/44/767), the Sixth Committee adopted two draft resolutions on this item. The first deals essentially with the work of the International Law Commission at its next session, and it reaffirms earlier decisions of the Assembly concerning various organizational matters, including the structuring of the debate that the Sixth Committee devotes each year to the report of the International Law Commission. The second draft resolution deals with the draft articles and optional protocols on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, which were drafted by the Commission at its last session. It provides for the holding of informal consultations at the forty-fifth session of the General Assembly, to study what is described in the draft resolution as the Commission's "valuable work". The Sixth Committee adopted both draft resolutions without a vote, and I hope that the General Assembly will find it possible to do the same.

(Mr. Pambou-Tchivounda, Rapporteur,
Sixth Committee)

I ask the Assembly to turn now to the report of the Sixth Committee (A/44/768) on agenda item 146, "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization". As indicated in paragraphs 12 and 13, the Sixth Committee adopted in this case one draft resolution and one draft decision.

The draft resolution is concerned principally with the reconvening in 1990 of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and with defining the work that the Committee must do.

Under the second draft the Assembly would bring to the attention of all States, so that it may become generally known the decision and the annexed draft document on the resort to a commission of good offices, mediation or conciliation within the United Nations. This document is the result of an initiative by the Romanian delegation and the product of several years' work within the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

The Sixth Committee adopted both the draft resolution and the draft decision without a vote and I hope that the Assembly will find it possible to do the same.

I come now to the penultimate item referred this year by the General Assembly to the Sixth Committee, namely, item 147, "Report of the Committee on Relations with the Host Country" (A/44/769). The draft resolution which the Sixth Committee is recommending to the Assembly for adoption appears in paragraph 8 of the report, and I wish to mention only two paragraphs: operative paragraph 3, in which the Assembly would express its appreciation of the efforts made by the host country and its hope that outstanding problems would be settled in a spirit of co-operation and

(Mr. Pambou-Tchivounda, Rapporteur,
Sixth Committee)

in accordance with international law; and operative paragraph 4, according to which the Assembly would urge the host country, in the light of the consideration by the Committee of travel regulations issued by the host country, to continue to bear in mind its obligations to facilitate the functioning of the United Nations and the missions accredited to it.

The Sixth Committee adopted this draft resolution without a vote and I hope that the Assembly will find it possible to do the same.

Agenda item 152, "International criminal responsibility of individuals and entities engaged in illicit trafficking in narcotic drugs across national frontiers and other transnational criminal activities; establishment of an international criminal court with jurisdiction over such crimes" - is the last item that the Sixth Committee addressed this year. Representatives will find in paragraph 9 of the relevant report (A/44/770) the draft resolution that the Sixth Committee is recommending to the Assembly for adoption. Under this draft resolution the General Assembly would request the International Law Commission, when considering at its next session the topic "Draft code of crimes against the peace and security of mankind", to address the question of establishing an international criminal court or other international criminal trial mechanism with jurisdiction over persons alleged to have committed crimes which may be covered under a code, including persons engaged in illicit drug trafficking across national land frontiers.

I should like, in conclusion, to emphasize that, with three exceptions, the draft resolutions and decisions submitted to the Assembly this year by the Sixth Committee were adopted without a vote. Two of the three texts that were put to a vote received no negative votes. I consider that this result bears witness to the excellent spirit which perhaps even more than usual has prevailed in the work of the Sixth Committee this year.

(Mr. Pambou-Tchivounda, Rapporteur
Sixth Committee)

It is also indicative of the intensity of the efforts made both by those initiating the draft resolutions and by the Chairman to achieve generally acceptable texts by means of serious and in-depth consultations.

Perhaps I have somewhat abused the patience of the Assembly, but it did seem to me that the work of the Sixth Committee deserved to be examined, however briefly, item by item.

All I would wish to add is an expression of my most sincere thanks to the Secretariat for the competence and diligence it has displayed throughout this session. I would particularly like to pay a tribute to the Legal Counsel, Mr. Carl-August Fleischhauer, to the Secretary of the Sixth Committee, Mr. Vladimir Kotliar, to the two Deputy Secretaries, Miss Jacqueline Dauchy and Mr. Andronico Adede, and to all the members of the Office of Legal Affairs who contributed to the smooth progress in the discharge of the work of the Sixth Committee. I would express my gratitude also to all the members of the Department of Conference Services - the interpreters, editors, translators, documents distribution staff and conference officers, who placed all their skills and their commitment at the disposal of the Sixth Committee.

The PRESIDENT: If there is no proposal under rule 66 of the rules of procedure, I shall take it that the General Assembly decides not to discuss the reports of the Sixth Committee which are before the Assembly today.

It was so decided.

The PRESIDENT: Statements shall therefore be limited to explanations of vote. The positions of delegations regarding the various recommendations of the Sixth Committee have been made clear in the Committee and are reflected in the relevant official records.

(The President)

May I remind members that under paragraph 7 of decision 34/401, the General Assembly agreed that

"When the same draft resolution is considered in a Main Committee and in plenary meeting, a delegation should, as far as possible, explain its vote only once, i.e., either in the Committee or in plenary meeting unless that delegation's vote in plenary meeting is different from its vote in the Committee".

May I also remind delegations that, also in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

The Assembly will now consider the report of the Sixth Committee on agenda item 138, entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law", contained in document A/44/761.

The draft resolution recommended by the Sixth Committee in paragraph 10 of its report in document A/44/761 was adopted by the Committee without a vote. May I take it that the General Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/28).

The PRESIDENT: I call on the representative of Cyprus for an explanation of position on the draft resolution just adopted.

Mr. DROUSHIOTIS (Cyprus): In relation to this item, and bearing in mind the objectives of the United Nations Decade of International Law, I wish to refer to the establishment of the Secretary-General's Trust Fund to assist States in the settlement of disputes through the International Court of Justice, and to inform the Assembly that the Government of the Republic of Cyprus has decided to contribute the amount of \$5,000 to the Fund. The contribution is a reflection of

(Mr. Droushiotis, Cyprus)

Cyprus' deep commitment to international law and strict adherence to it and its application in the peaceful settlement of disputes between States. It is our firm belief that all the principal organs of the Organization can effectively contribute to the solution of international disputes and problems, including that of Cyprus.

The PRESIDENT: We have concluded our consideration of agenda item 138.

The Assembly will now consider the report of the Sixth Committee on agenda item 139, entitled "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes", contained in document A/44/762.

The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 12 of its report, document A/44/762. The Sixth Committee adopted this draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/29).

The PRESIDENT: I call on the representative of Ghana for an explanation of position on the draft resolution just adopted.

Mr. KUFUOR (Ghana): Ghana joined in the consensus on the adoption of the resolution contained in document A/44/762. As we have indicated, Ghana has reservations on the insertion of the phrase "and not justifiable" in paragraph 1, because it can only lead to confusion in the absence of an agreed definition of who is a terrorist.

If an act is criminal, it follows that in the eyes of the law it is not justifiable; therefore, the addition of the words "and not justifiable" would to my delegation seem superfluous.

(Mr. Rufuor, Ghana)

However, the real intention of the proponents of this phrase is to bring into the ambit of the resolution the just struggle of peoples under colonial domination, racist régimes and foreign occupation, and characterize them as criminal. This is not acceptable to my delegation: the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in resolution 1514 (XV), the Universal Declaration of Human Rights and other United Nations resolutions recognize the inalienable right to self-determination and independence of all peoples under colonial domination and racist régimes, and uphold the legitimacy of their struggles, in particular the struggles of national liberation movements.

My delegation also reserves its position on the insertion of the word "legitimately" in the language of paragraph 17. It is inconsistent with the import of that paragraph.

(Mr. Kufuor, Ghana)

As paragraph 17 stands in the present resolution, the Assembly "considers" the right to self-determination, freedom and independence but so circumscribes it that, where this right is denied, waging a struggle to vindicate it would be impossible, in particular in the context of municipal law. This is not the way it should be, for we would be negating the right to self-defence as enshrined in Article 51 of the Charter.

Peoples under colonial domination and racist régimes may use all the means at their disposal, including the throwing of stones, in their struggle against their oppressors. History is replete with heroic struggles by peoples for freedom and self-determination. Had they waited to get legal dispensations from their oppressors, they would still be groaning under the yoke of domination and oppression. It seems to my delegation that there are unfortunately some who are willing to sacrifice cherished rights for the sake of a dubious consensus.

As my delegation understands it, the provisions of the resolution cover ordinary terrorist activities, as we all know them, and is in no way intended to affect the exercise of the right to self-determination and independence.

The PRESIDENT: That concludes our consideration of agenda item 139.

The Assembly will next consider the report of the Sixth Committee (A/44/763) on agenda item 140, "Progressive development of the principles and norms of international law relating to the new international economic order".

The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 8 of its report.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe

Against: Luxembourg

Abstaining: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Federal Republic of, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America

The draft resolution was adopted by 126 votes to 1, with 24 abstentions (resolution 44/30).*

The PRESIDENT: That concludes our consideration of agenda item 140.

The Assembly will now consider the report of the Sixth Committee (A/44/764) on agenda item 141, "Peaceful settlement of disputes between States".

I call on the representative of Finland, who wishes to speak in explanation of vote.

* Subsequently, the delegations of Dominica and the Dominican Republic advised the Secretariat that they had intended to vote in favour; the delegation of Luxembourg had intended to abstain.

Mr. KOSKENNIEMI (Finland): I have the honour to speak on behalf of the five Nordic countries - Denmark, Iceland, Norway, Sweden and Finland.

We shall abstain in the voting on the draft resolution concerning the peaceful settlement of disputes. Our reasons for so doing can be found in our statement in explanation of vote in the Sixth Committee on 22 November 1989. We would only like to add here that we were a co-sponsor of amendments that were presented in a spirit of compromise and in order to avoid a vote on this important matter. Our amendments contained a proposal to delete operative paragraph 4 and a proposal to formulate operative paragraph 5 so as to provide that the consideration of the item would be merged with the consideration of the United Nations Decade of International Law. The former proposal received 29 affirmative votes, while 33 States abstained; 28 States voted in favour of the latter proposal, while 41 States abstained.

The Nordic countries regret that the amendments of which they were co-sponsors could not be adopted and that consequently they will have to abstain in the voting on the draft resolution as a whole.

The PRESIDENT: The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 16 of its report (A/44/764).

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe

Against: None

Abstaining: Australia, Belgium, Canada, Denmark, Finland, France, Germany, Federal Republic of, Hungary, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America

The draft resolution was adopted by 131 votes to none, with 21 abstentions (resolution 44/31).*

The PRESIDENT: I shall now call on those representatives who wish to explain their vote on the resolution just adopted.

* Subsequently, the delegation of Dominica advised the Secretariat that it had intended to vote in favour.

Mr. GARRO (Peru) (interpretation from Spanish): In connection with the draft resolution on the peaceful settlement of disputes between States, to be found in paragraph 16 of document A/44/764, my delegation wishes to draw attention to the statement we made in the Sixth Committee during this session of the General Assembly. That statement can be found in document A/C.6/42/SR.28.

Mr. DEION (France) (interpretation from French): I have the honour to speak on behalf of the 12 States members of the European Community in order to explain their vote on the draft resolution on the peaceful settlement of disputes.

Amendments to the draft resolution were proposed in a spirit of compromise during its consideration in the Sixth Committee. All of the 12 States members of the European Community voted in favour of the amendment to paragraph 4 of the draft. It received 29 votes in favour, with 33 abstentions. All of them also voted in favour of the amendment to paragraph 5; on which there were 28 votes in favour, with 41 abstentions.

The 12 States members of the European Community regret that these amendments were not adopted and that, consequently, the majority of them did not support the draft resolution in paragraph 16 of document A/44/764.

The PRESIDENT: That concludes our consideration of agenda item 141.

The PRESIDENT: I now invite members to turn their attention to the report of the Sixth Committee (A/44/765) on agenda item 142, entitled "Draft Code of Crimes against the Peace and Security of Mankind".

The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 8 of its report.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe

Against: France, Germany, Federal Republic of, Israel, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining: Belgium, Canada, Denmark, Finland, Iceland, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Turkey

The draft resolution was adopted by 133 votes to 5, with 14 abstentions (resolution 44/32).

The PRESIDENT: We have concluded our consideration of agenda item 142.

(The President)

We turn next to the report of the Sixth Committee (A/44/723) on agenda item 143, entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-second session".

The Assembly will now take a decision on the draft resolution recommended by the Committee in paragraph 8 of its report. As the Rapporteur of the Sixth Committee indicated with regard to operative paragraph 5 of the draft resolution, the dates for the conference of plenipotentiaries in Vienna will be 2 to 19 April 1991. The text of the draft resolution should therefore be corrected accordingly.

The report of the Fifth Committee on the programme budget implications of that draft resolution is contained in document A/44/809.

The Sixth Committee adopted this draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/33)

The PRESIDENT: We have therefore concluded our consideration of agenda item 143.

I now invite members to turn their attention to the report of the Sixth Committee (A/44/766) on agenda item 144, entitled "Report of the Ad Hoc Committee on the drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".

The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 10 of its report.

(The President)

The Sixth Committee adopted this draft resolution without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/34).

The PRESIDENT: I call on the representative of Nicaragua, who wishes to explain her position on the draft resolution.

Miss MONCADA BERMUDEZ (Nicaragua) (interpretation from Spanish): The delegation of Nicaragua is very pleased to note that the Sixth Committee and the General Assembly have managed to conclude and adopt without a vote the text of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. In this connection we express our thanks to the Ad Hoc Committee and, in particular, its Chairman.

Nicaragua believes that with the adoption of this Convention we are taking a positive step in the establishment of a legal framework which can have a positive impact in controlling the activities of mercenaries recruited, financed and trained from outside and used to hamper the exercise by sovereign States of their right to sovereignty and self-determination.

However, we have some reservations with regard to some parts of the Convention, which we shall not reiterate here, because these were made clear throughout the work of the Ad Hoc Committee and are known to delegations. Nevertheless, my delegation would like to emphasize the fact that Nicaragua believes that the definition of mercenaries should not be confined to non-nationals of any given country. It is public knowledge that the world of today has seen a marked trend towards nationals of a country being contracted in large numbers by other countries to carry out mercenary activities from outside against their country of origin. Consequently, the fact that the definition of mercenaries in the Convention does not include nationals whose very existence and activities depend on a foreign Power is, we feel, a serious deficiency.

(Miss Moncada Bermudez,
Nicaragua)

Nevertheless, because of its commitment to the international legal system, my Government will give favourable consideration to accession to the Convention in due course.

The PRESIDENT: We have today adopted the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. This Convention is the product of compromise, after eight sessions of serious negotiations by the members of the Ad Hoc Committee. It symbolizes, I think, the political will of the international community, despite initial differences, to outlaw once and for all the activities of these soldiers of fortune, who have not only contributed to the destabilization of the affected States but also plundered and looted villages and farms in Africa, Latin America and Asia. We commend all those who took part in this serious exercise for their patience and their efforts.

Let me recall briefly that Nigeria took the initiative in having the item included in the agenda at the thirty-fifth session of the General Assembly as follow-up action to the 1977 Conference of plenipotentiaries on humanitarian law in armed conflicts. Nigeria spearheaded the adoption of article 47 of Protocol I additional to the four general conventions on humanitarian law. It was at that Conference that mercenaries were stripped of their prisoner-of-war status.

Significant though that provision in the Additional Protocol may be, the activities of mercenaries were still not regarded as unlawful under international law. Yet those soldiers of fortune embarked upon destructive adventures into several parts of Africa, Asia and Latin America, causing considerable damage to lives and property. Attempts by the Republic of Angola to punish such criminals were decried by some countries. Today, however, we have an international instrument which, when ratified as provided for in the Convention, will give the affected States parties authority either to punish or to extradite.

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While the Convention does not adequately reflect all our concerns, it is indeed a useful legal document, a milestone in the efforts at codification of the rules of international law. We look forward to its entry into force as soon as possible.

This concludes our consideration of agenda item 144.

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The Assembly will now consider the report of the Sixth Committee on agenda item 145 (A/44/767), entitled "Report of the International Law Commission on the work of its forty-first session". The Assembly will now take a decision on the draft resolutions recommended by the Sixth Committee in paragraph 11 of its report.

Draft resolution I is entitled "Report of the International Law Commission on the work of its forty-first session". The Sixth Committee adopted the draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

Draft resolution I was adopted (resolution 44/35).

The PRESIDENT: Draft resolution II is entitled "Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto".

The Sixth Committee adopted the draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

Draft resolution II was adopted (resolution 44/36).

The PRESIDENT: The Assembly has concluded its consideration of agenda item 145.

We turn now to the report of the Sixth Committee on agenda item 146 (A/44/768), entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

The Assembly will take a decision on the draft resolution recommended by the Sixth Committee in paragraph 12 of its report and on the draft decision recommended by the Sixth Committee in paragraph 13 of the same report. The draft resolution is entitled "Report of the Special Committee on the Charter of the United Nations and

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on the Strengthening of the Role of the Organization". The report of the Fifth Committee on the programme budget implications of this draft resolution is contained in document A/44/830.

The Sixth Committee adopted the draft resolution without a vote. May I take it that the General Assembly wishes to do likewise?

The draft resolution was adopted (resolution 44/37).

The PRESIDENT: The draft decision is entitled "Resort to a Commission of good offices, mediation or conciliation within the United Nations".

The Sixth Committee adopted the draft decision without a vote. May I take it that the General Assembly wishes to do the same?

The draft decision was adopted.

The PRESIDENT: The Assembly has concluded its consideration of agenda item 146.

The Assembly will now turn to the report of the Sixth Committee on agenda item 147 (A/44/769), entitled "Report of the Committee on Relations with the Host Country".

The Assembly will take a decision on the draft resolution recommended by the Sixth Committee in paragraph 8 of its report. The Sixth Committee adopted the draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/38).

The PRESIDENT: I now call on the representative of Czechoslovakia who wishes to explain his position on the draft resolution just adopted.

Mr. MIKULKA (Czechoslovakia) (interpretation from French): My delegation participated in the adoption by consensus of the draft resolution on the report of the Committee on Relations with the Host Country. At the same time my delegation considers it necessary to confirm its legal position with regard to the restrictions, in terms of movement, mentioned in paragraph 4 of the resolution. These were imposed by the host country upon staff of permanent missions to the United Nations of several countries, including Czechoslovakia. It also put restrictions on the nationals of those countries who are members of the United Nations Secretariat.

Our position on this subject was expressed several times in the Committee on Relations with the Host Country and in the Sixth Committee and a letter was addressed to the Secretary-General by members of several missions affected by these restrictions.

The differences which exist between the countries affected by the restrictions and the host country should be resolved on the basis of international law, by means which are available under the United Nations Headquarters Agreement and under the Convention on Privileges and Immunities of the United Nations.

The PRESIDENT: The Assembly has concluded its consideration of agenda item 147.

Next we shall consider the report of the Sixth Committee on agenda item 152 (A/44/770), entitled "International criminal responsibility of individuals and entities engaged in illicit trafficking in narcotic drugs across national frontiers and other transnational criminal activities: establishment of an international criminal court with jurisdiction over such crimes".

The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 9 of its report. The Sixth Committee adopted the

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draft resolution without a vote. May I take it that the General Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/39).

The PRESIDENT: The Assembly has thus concluded its consideration of agenda item 152.

The meeting rose at 11.40 a.m.