

4. *Also requests* the Secretary-General to include the views received from Member States in accordance with paragraph 3 of the present resolution in a report to be submitted to the General Assembly at its forty-fifth session;

5. *Decides* to include in the provisional agenda of its forty-fifth session the item entitled "Draft Code of Crimes against the Peace and Security of Mankind", to be considered in conjunction with the examination of the report of the Commission.

*72nd plenary meeting
4 December 1989*

44/33. Report of the United Nations Commission on International Trade Law on the work of its twenty-second session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade, as well as its resolution 43/166 of 9 December 1988,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic co-operation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-second session,³⁰

Noting that the Commission adopted a draft convention on the liability of operators of transport terminals in international trade³¹ and recommended in the decision in paragraph 225 of its report that the General Assembly should convene an international conference of plenipotentiaries for a duration of three weeks in 1991 to conclude, on the basis of the draft convention, a convention on the liability of operators of transport terminals in international trade,

Recognizing the need for the Commission to have adequate sources of funding for its programme of training and assistance in international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its twenty-second session;

2. *Reaffirms* the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to co-ordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law and, in this connection, recommends that the Commission, through its secretariat, should continue to maintain close co-operation with the other international organs and organizations, including regional organizations, active in the field of international trade law;

3. *Calls upon* the Commission to continue to take account of the relevant provisions of the resolutions concerning the new international economic order, as adopted by the General Assembly at its sixth³² and seventh³³ special sessions;

4. *Expresses its appreciation* to the Commission for the valuable work done in preparing a draft convention on the liability of operators of transport terminals in international trade;

5. *Decides* that an international conference of plenipotentiaries shall be convened at Vienna from 2 to 19 April 1991 to consider the draft convention prepared by the Commission and to embody the results of its work in a convention on the liability of operators of transport terminals in international trade;

6. *Requests* the Secretary-General:

(a) To invite all States to participate in the conference;

(b) To invite representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices in the capacity of observers to participate in the conference in that capacity, in accordance with Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976;

(c) To invite representatives of the national liberation movements recognized by the Organization of African Unity in its region to participate in the conference in the capacity of observers in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974;

(d) To invite the specialized agencies and the International Atomic Energy Agency, as well as interested organs of the United Nations and interested international organizations, to be represented at the conference by observers;

7. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia, in particular those organized on a regional basis, to promote such training and assistance, and, in this connection:

(a) *Expresses its appreciation* to the Commission for organizing the symposium on international trade law held in conjunction with the twenty-second session of the Commission and to the Governments whose contributions enabled the symposium to take place;

(b) *Invites* Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

8. *Repeats its invitation* to those States that have not yet done so to consider signing, ratifying or acceding to the conventions elaborated under the auspices of the Commission;

9. *Approves* the initiative of the Commission³⁴ to have prepared an official Arabic language version of the Con-

³² Resolutions 3201 (S-VI) and 3202 (S-VI)

³³ Resolution 3362 (S-VII)

³⁴ See *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 17 (A/44/17)*, chap. VIII.

³⁰ *Ibid.*, Forty-fourth Session, Supplement No. 17 (A/44/17).

³¹ *Ibid.*, annex I.

vention on the Limitation Period in the International Sale of Goods, of 14 June 1974,³⁵ as amended by the Protocol of 11 April 1980.³⁶

*72nd plenary meeting
4 December 1989*

44/34. International Convention against the Recruitment, Use, Financing and Training of Mercenaries

The General Assembly,

Considering that the progressive development of international law and its codification contribute to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Mindful of the need to conclude, under the auspices of the United Nations, an international convention against the recruitment, use, financing and training of mercenaries,

Recalling its resolution 35/48 of 4 December 1980, by which it established the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and requested it to elaborate at the earliest possible date an international convention to prohibit the recruitment, use, financing and training of mercenaries,

Having considered the draft convention prepared by the *Ad Hoc* Committee in pursuance of the above-mentioned resolution³⁷ and finalized by the Working Group on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries,³⁸ which met during the forty-fourth session of the General Assembly,

Adopts and opens for signature and ratification or for accession the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, the text of which is annexed to the present resolution.

*72nd plenary meeting
4 December 1989*

ANNEX

International Convention against the Recruitment, Use, Financing and Training of Mercenaries

The States Parties to the present Convention,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations and 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,⁹

Being aware of the recruitment, use, financing and training of mercenaries for activities which violate principles of international law, such as those of sovereign equality, political independence, territorial integrity of States and self-determination of peoples,

Affirming that the recruitment, use, financing and training of mercenaries should be considered as offences of grave concern to all States and

that any person committing any of these offences should be either prosecuted or extradited,

Convinced of the necessity to develop and enhance international co-operation among States for the prevention, prosecution and punishment of such offences,

Expressing concern at new unlawful international activities linking drug traffickers and mercenaries in the perpetration of violent actions which undermine the constitutional order of States,

Also convinced that the adoption of a convention against the recruitment, use, financing and training of mercenaries would contribute to the eradication of these nefarious activities and thereby to the observance of the purposes and principles enshrined in the Charter,

Cognizant that matters not regulated by such a convention continue to be governed by the rules and principles of international law,

Have agreed as follows:

Article 1

For the purposes of the present Convention,

1. A mercenary is any person who:

- (a) Is specially recruited locally or abroad in order to fight in an armed conflict;
- (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;
- (c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;
- (d) Is not a member of the armed forces of a party to the conflict; and
- (e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

2. A mercenary is also any person who, in any other situation:

- (a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:
 - (i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or
 - (ii) Undermining the territorial integrity of a State;
- (b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation;
- (c) Is neither a national nor a resident of the State against which such an act is directed;
- (d) Has not been sent by a State on official duty; and
- (e) Is not a member of the armed forces of the State on whose territory the act is undertaken.

Article 2

Any person who recruits, uses, finances or trains mercenaries, as defined in article 1 of the present Convention, commits an offence for the purposes of the Convention.

Article 3

1. A mercenary, as defined in article 1 of the present Convention, who participates directly in hostilities or in a concerted act of violence, as the case may be, commits an offence for the purposes of the Convention.

2. Nothing in this article limits the scope of application of article 4 of the present Convention.

Article 4

An offence is committed by any person who:

- (a) Attempts to commit one of the offences set forth in the present Convention;
- (b) Is the accomplice of a person who commits or attempts to commit any of the offences set forth in the present Convention.

³⁵ *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), p. 101.

³⁶ *Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980* (United Nations publication, Sales No. E.82.V.5), p. 191.

³⁷ *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 43 and corrigendum (A/44/43 and Corr.1), sects. II.C and III.*

³⁸ A/C.6/44/L.9, annex.