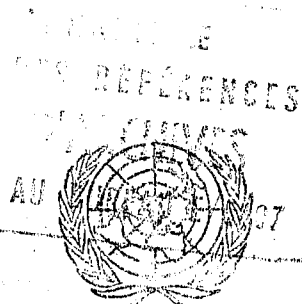


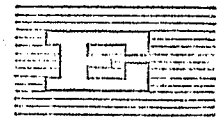
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Item 9 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS
APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN
DOMINATION OR FOREIGN OCCUPATION.

Report of the Secretary-General

CONTENTS

	<u>Paragraph</u>	<u>Page</u>
Introduction	1 - 2	2
I. SUMMARIES OF REPLIES RECEIVED FROM GOVERNMENTS UNDER COMMISSION RESOLUTION 1984/14	3 - 28	2
Cuba	3 - 6	2
Cyprus	7 - 9	3
Denmark	10	3
Lebanon	11 - 12	4
Qatar	13 - 17	4
Rwanda	18 - 25	5
United Republic of Cameroon	26 - 28	6

Introduction

1. In its resolution 1984/14 of 29 February 1984, the Commission on Human Rights, inter alia, reaffirmed the legitimacy of the struggle of the oppressed people of South Africa and their national liberation movements by all available means as well as the inalienable right of the people of Namibia to self-determination, freedom and national independence. It also reaffirmed once again that the practice of using mercenaries against national liberation movements and sovereign States constituted a criminal act and that the mercenaries themselves were criminals, and called upon Governments to enact legislation declaring the recruitment, financing and training of mercenaries in their territory, and their transit through it, to be punishable offences, and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General.

2. The present report contains summaries of replies received as of 15 November 1984 from Governments on action taken pursuant to the above-mentioned resolution. Any additional replies will be reproduced as addenda to the present document.

I. Summaries of replies received from Governments under Commission resolution 1984/14

Cuba

[Original: Spanish]
[18 September 1984]

3. I should like to repeat that mercenarism is a flagrant violation of the fundamental principles of international law such as respect for territorial integrity and non-interference in the internal affairs of States, and at the same time constitutes a serious obstacle to the achievement of the self-determination of peoples in their struggle against colonialism, neo-colonialism, racism, racial discrimination, zionism, apartheid and all forms of foreign domination.

4. Imperialism, ignoring the resolutions and decisions of the United Nations General Assembly, is currently stepping up the use of mercenaries with the aim of stifling the noble aspirations of peoples striving for their independence and freedom and for the elimination of all forms of exploitation - an attitude which we strongly condemn.

5. The Republic of Cuba is participating actively in the work of, and has submitted proposals to, the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and it attaches special importance to the co-operation furnished within that body by countries interested in finding ways of ending these illegal activities, a purpose which would be served by the conclusion of an international treaty.

6. We would like to take this opportunity to reiterate the Republic of Cuba's support for the decision of the United Nations General Assembly in resolution 38/137 concerning the extension of the mandate of the Ad Hoc Committee.

Cyprus

[Original: English]
[18 October 1984]

7. The provision on the practice of using mercenaries contained in paragraph 11 of General Assembly resolution 37/43 of 3 December 1982, was also included in Commission on Human Rights resolution 1982/16 of 25 February (para. 11), and the matter was at the time considered by the competent authorities of the Cyprus Government.

8. The relevant law on the subject is section 55 of the Criminal Code, Cap. 154, of the laws of Cyprus which provides as follows:

"55. (1) Any person who -

(a) Without the permission of the Council of Ministers trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(b) is present at any meeting or assembly of persons, held without the permission of the Council of Ministers, for the purpose of training or drilling any other persons to the use of arms or the practice of military exercises, movements, or evolutions,

is guilty of a felony, and is liable to imprisonment for seven years.

"(2) Any person who at any meeting or assembly held without the permission of the Council of Ministers is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled is guilty of a felony and is liable to imprisonment for five years."

9. Even though the above provision covers to a large extent the provision contained in paragraph 11 of the above-mentioned resolutions, we are considering adding a new section to our Criminal Code, to ensure full compliance with that paragraph. This new section, if finally adopted, will provide the following:

"55A. Any person, who, without the permission of the Council of Ministers, recruits, finances or trains any person in the territory of the Republic for use abroad as mercenaries against any national liberation movement or sovereign state, is guilty of a felony and is liable to imprisonment for ... years."

Denmark

[Original: English]
[24 October 1984]

10. The Danish Penal Code contains the following provision in Article 128:

"Any person who within the territory of the Danish State undertakes to recruit for war service with a foreign power shall be liable to a fine or to simple detention or to imprisonment for any term not exceeding two years."

Lebanon

[Original: French]
[15 October 1984]

11. The laws and regulations of the Lebanese Republic, and in particular those concerning the organization of the army, do not authorize the recruitment of non-Lebanese.

12. Moreover, Lebanese legislation concerning nationality deprives of Lebanese nationality anyone who works in the service of a foreign State without having obtained prior authorization from the Lebanese authorities.

Qatar

[Original: Arabic]
[19 September 1984]

13. The State of Qatar believes that the process of the achievement of independence by the countries of the third world, particularly in the African continent, has been accompanied by an increase in the activities of mercenaries, and that colonialist circles have recruited and used mercenaries to impede that process and to threaten the independence and territorial integrity of newly-independent States.

14. Apart from being a criminal act, the use of mercenaries also constitutes interference in the internal affairs of States, a violation of the right of peoples to self-determination and a threat to international peace and security. The State of Qatar believes that the drafting and early adoption of an international convention prohibiting the practice of using mercenaries would represent a major contribution to the progressive development of international law.

15. With regard to the responsibility of States which support or participate in the recruitment or training of mercenaries, it must be clearly stipulated that States are under an obligation to prevent the activity in their territory of individuals, groups or organizations which are involved in the recruitment or training of mercenaries with a view to overthrowing Governments or political regimes. Furthermore, a clear distinction must be made between mercenaries who do not enjoy the status of combatants or prisoners of war under article 47 of the First Additional Protocol to the Geneva Conventions, and who are therefore regarded as professional assassins not entitled to international immunity, and freedom fighters serving with national liberation movements.

16. The State of Qatar believes that an international convention against the recruitment, use, financing and training of mercenaries should deal with the question of engagement in such activities in peace-time as well as during periods of armed conflict. The term "mercenary" must be defined and provision must be made for the prevention and effective punishment of the crime of engagement in mercenary activities. The convention must deal not only with the persons and bodies engaged in this criminal act but also with those who, by their positive or negative attitude, assist in or encourage its commission. The responsibility of States must also be defined and stipulated in an appropriate manner, paying due regard to the firmly established and universally recognized principles of international law concerning the criminal liability of individuals and the responsibilities of States and international legal institutions in respect of matters such as extradition and the notification of proceedings taken against

criminals. Finally, there is a need for criminals to be treated in a humanitarian manner consistent with all of the modern and generally accepted standards governing the administration of criminal justice.

17. Article 5 of the Provisional Constitution of the State of Qatar affirms that the foreign policy of the State shall aim to strengthen the ties of friendship with all Islamic States and peoples in particular, and with all peace-loving States and peoples in general, on a basis of mutual respect, common interest and non-interference in internal affairs. Article 5 also stipulates that the State shall adhere to the principles of the Charter of the United Nations which advocate the right of peoples to self-determination, the development of international co-operation for the benefit of all mankind and the promotion of peace and security throughout the world, and which encourage States to settle their disputes by peaceful means and to conduct their mutual relations on a basis of justice and equality in accordance with the principles of international law.

Rwanda

[Original: French]
[16 October 1984]

18. As proclaimed by the Manifesto of the National Revolutionary Movement for Development (MRND), a political grouping bringing together the nation's vital forces, the Rwandese people is convinced that it is impossible for the country to achieve development in isolation, in other words without the co-operation of other nations.

19. As is also affirmed by the Manifesto of the MRND, the Rwandese people is "aware that world development has reached a stage where the misfortune of one people or group of individuals is felt by mankind as a whole". The Rwandese people is therefore "determined to combine its efforts with those of other peoples struggling to liberate mankind from various forms of distress" and "to co-operate with all peoples in achieving international justice, co-operation between all human beings and true peace between nations".

20. The MRND considers "peaceful coexistence and co-operation in respect for the sovereignty of every nation to be a fundamental rule of international relations".

21. Lastly, the MRND declares that it "will give its unstinting support to peoples in their struggle to recover their freedom" and that "it will endeavour to instil in the Rwandese people an awareness of the need for the prompt liberation of the African continent".

22. More specifically, the Rwandese Government has done its utmost to promote a policy of co-operation and good-neighbourliness. The Economic Community of the Great lakes Countries (CEPGL) formed by Burundi, Rwanda and Zaire, and the Organization for the Development of the Kagera River Basin (OBK) formed by Burundi, Rwanda, Tanzania and Uganda, are two subregional organizations reflecting the Rwandese Government's desire for co-operation.

23. The policy of good-neighbourliness and peaceful coexistence advocated by the Rwandese Government was clearly illustrated by the arrest and trial, in 1979, of a group of mercenaries attempting to pass through Rwanda with a view to stirring up trouble in a neighbouring country.

24. Rwanda, which is a party to the OAU Convention for the Elimination of Mercenarism in Africa, condemns the activities of mercenaries; it is on the basis of this principle that the Rwandese authorities took the decision to arrest and try the mercenaries mentioned above, who were manifestly intending to attack a neighbouring country from Rwandese territory.

25. Rwanda unreservedly supports peoples struggling to recover their freedom. In line with this policy, it makes a financial contribution to the African Liberation Fund and, in consequence, cannot but condemn any action, particularly by mercenaries, designed to oppose or delay the liberation of oppressed peoples, both in Africa and everywhere else in the world.

United Republic of Cameroon

[Original: French]
[11 September 1984]

26. Cameroon condemns activities connected with mercenarism, namely the recruitment, financing and training of mercenaries in its territory and their transit through it, as well as the engagement of its nationals as mercenaries. Articles 106 and 108 of the Cameroonian Penal Code prescribe penalties for these activities.

27. Article 106 imposes a prison term of one to five years and/or a fine of 50,000 to 5 million CFA francs on anyone who, in time of peace:

Has dealings with the agents of a foreign Power which are likely to be detrimental to the Republic's military or diplomatic position;

Recruits or enlists individuals in the territory of the Republic on behalf of a foreign armed force, without authorization from the Government;

Exposes citizens to retaliation by engaging in acts not approved by the Government.

28. Under article 108, anyone who, in time of war, commits one of the offences referred to in article 106 is liable to a prison term of 10 to 20 years.