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REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM
IN THE AGENDA OF THE THIRTY-FOURTH SESSION

DRAFTING OF AN INTERNATIONAL CONVENTION AGAINST
ACTIVITIES OF MERCENARIES

Letter dated 5 December 1979 from the Permanent Representative of
Nigeria to the United Nations addressed to the Secretary-General

I have the honour to request, on behalf of a number of the delegations of Member States, the inclusion in the agenda of the thirty-fourth session of the General Assembly of an additional item entitled:

"Drafting of an international convention against activities of mercenaries".

This request is being made pursuant to rule 15 of the rules of procedure of the General Assembly in view of the very important and urgent character of the subject-matter.

In accordance with rule 20 of the rules of procedure, an explanatory memorandum (annex I) and a draft resolution (annex II) are attached.

(Signed) B. Akporode CLARK
Ambassador
Permanent Representative

ANNEX I

Explanatory memorandum

1. The efforts by the international community to reduce the problem of international terrorism cannot be said to be complete without focusing attention on the menace these soldiers of fortune bring to many nations in Africa.
2. The sordid and inhuman occupation of these soldiers of fortune who have no stake in Africa other than the exploits and the gains from the booty of the wars against Governments and national liberation movements did not escape the notice and round condemnation of the Heads of State and Government of the Organization of African Unity (OAU).
3. The Assembly of Heads of State and Government of OAU, meeting at Kinshasa, Congo, in 1967, conscious of the danger that the presence of mercenaries in any part of Africa was inimical to order and progress and in particular constituted a threat to the lives of both indigenes and foreigners alike, demanded an immediate withdrawal of all the mercenaries from the Congo.
4. In the succeeding years, similar solemn declarations on the dangers the presence of mercenaries pose to newly independent countries and national liberation movements were made by OAU.
5. In 1970, the Council of Ministers of OAU, meeting at Lagos, Nigeria, roundly condemned the role of these "dogs of war".
6. In 1971, OAU reiterated its earlier call that mercenarism jeopardized the independence and territorial integrity of member States. That declaration expressed African resolve to "prepare a legal instrument for co-ordinating, harmonizing and promoting the struggle of the African peoples and States against mercenaries".
7. Consequently, the Council of Ministers of OAU, meeting at Rabat, Morocco, in 1972, put up a draft convention for the elimination of mercenaries in Africa.
8. In 1976, the Council of Ministers, meeting at Port Louis, Mauritius, adopted the draft convention on mercenaries and requested comments from member States on the draft articles.
9. The sentencing and executions of some of the mercenaries caught by the Government of Angola in 1976, though timely and appropriate in the circumstances, were regarded as ex post facto law and criticized by those who engaged in the recruitment, training, financing and use of mercenaries.
10. Conscious of the fact that the problem of mercenarism is a global one rather than regional, the Nigerian delegation, in close co-operation with other African

States, initiated the definition of mercenaries at the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts at Geneva in 1977. The definition of mercenaries incorporated as article 47 of Protocol I Additional to the Geneva Conventions of 12 August 1949 has now made it clear that mercenaries are soldiers of fortune and should not be accorded the status of prisoners of war.

11. In view of the seriousness of the activities of mercenaries and the concomitant threat to international peace and security, the international community should spare no further efforts in transforming its concerns into reality by drafting an international convention to prohibit the recruitment, training, financing and use of mercenaries.

12. Such an international convention will complement the various conventions on international terrorism and will be a useful effort in the codification and progressive development of the rules of international law.

13. In the light of the above and having regard to the continued menace of mercenarism in the world, it is appropriate and expedient that the General Assembly, at its thirty-fifth session, should take up the urgent consideration of an item concerning the need for an international convention on the recruitment, training, financing, transit and use of mercenaries.

ANNEX II

Drafting of an international convention against
activities of mercenaries

The General Assembly,

Deeply concerned over the increasing menace which the activities of mercenaries represent for all States, particularly African States and other small developing States of the world,

Recognizing that mercenarism is a threat to international peace and security and, like murder, piracy and genocide, is a universal crime against humanity,

Recalling its 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, in which it affirmed the precariousness of the activities of mercenarism in Africa and their effect on international peace and security,

Recalling also Security Council resolutions 239 (1967) of 10 July 1967, 405 (1977) of 14 April 1977 and 419 (1977) of 24 November 1977 in which the Council, inter alia, condemned any State which persisted in permitting or tolerating the recruitment of mercenaries and the provision of facilities to them with the objective of overthrowing the Governments of States Members of the United Nations,

Recalling further the relevant resolutions and the Convention of the Organization of African Unity condemning and outlawing mercenarism and its adverse effects on the independence and territorial integrity of the African States,

Deploring the increased recruitment, training, assembly, transit and use of mercenaries for the purpose of overthrowing Governments of States Members of the United Nations and of fighting the national liberation movement in African and other independent nations,

Calling upon all States to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure by both administrative and legislative measures that their territory and other territories under their control, as well as their nationals, are not used for the planning of subversion and recruitment, assembly, financing, training and transit of mercenaries designed to subvert or overthrow the Government of any Member State and to fight the national liberation movement in African and other independent nations,

1. Decides to consider the drafting of an international convention to outlaw mercenarism in all its manifestations;

2. Urges all States to consider effective measures to prohibit the recruitment, training, assembly, transit and use of mercenaries within their territories;

3. Invites all Member States to communicate to the Secretary-General before the thirty-fifth session of the General Assembly their views and comments on the need to elaborate urgently an international convention to prohibit the recruitment, use, financing and training of mercenaries;

4. Decides to include in the provisional agenda of its thirty-fifth session an item entitled "Drafting of an international convention against the recruitment, use, financing and training of mercenaries".
