

37/107. Provisions for a unit of account and adjustment of limitations of liability adopted by the United Nations Commission on International Trade Law

The General Assembly,

Recognizing that many international transport and liability conventions of both a global and a regional character contain limitation of liability provisions, wherein the limitation of liability is expressed in a unit of account,

Noting that the amount fixed in such a convention as the limitation of liability may become seriously affected over time by changes in monetary values, thereby destroying the intended balance of the convention as adopted,

Believing that a preferred unit of account for many conventions, particularly for those of global application, should be the special drawing right as determined by the International Monetary Fund,

Being of the opinion that the conventions should, in any event, contain a provision which would facilitate adjustment of the limit of liability to changes in monetary values,

Taking into consideration any preferential agreements between the States concerned,

Noting that the United Nations Commission on International Trade Law has adopted a provision for a universal unit of account for expressing monetary amounts in international transport and liability conventions and two alternative provisions for adjustment of the limits of liability in such conventions,²³

1. Recommends that, in the preparation of future international conventions containing limitation of liability provisions or in the revision of existing conventions, the unit of account provision adopted by the United Nations Commission on International Trade Law should be used;

2. Recommends further that in such conventions one of the two alternative provisions for adjustment of the limitation of liability adopted by the United Nations Commission on International Trade Law should be used.

*107th plenary meeting
16 December 1982*

37/108. 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,²⁴

Emphasizing 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,

Deeply concerned about the continued large number of violations of, and 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,

Noting that only a small number of States have so far, in response to the call by the General Assembly at its thirty-fifth and thirty-sixth 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 resolution 36/33 of 13 November 1981 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. 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 effectively to ensure 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;

4. Recommends that States should co-operate closely, *inter alia* through 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;

5. 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, *inter alia* the Vienna Convention on Diplomatic Relations of 1961,²⁵ the Vienna Convention on Consular Relations of 1963,²⁶ and the respective optional protocols thereto, as well as the Convention of 1973 on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;²⁷

6. 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;

7. Invites:

(a) All States to report to the Secretary-General 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, where applicable, the State where the alleged offender is

²³ *Ibid.*, para. 63.

²⁴ A/37/404 and Corr.1, Add.1 and Add.1/Corr.1 and Add.2-5.

²⁵ United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

²⁶ *Ibid.*, vol. 596, No. 8638, p. 261.

²⁷ Resolution 3166 (XXVIII), annex.

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;

8. *Requests* the Secretary-General to circulate to all States, upon receipt, the reports received by him pursuant to paragraph 7 above, unless the reporting State requests otherwise;

9. *Also 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;

10. *Further requests* the Secretary-General, when a serious violation has been reported pursuant to paragraph 7 (a) above, to draw the attention, when appropriate, of the States directly concerned to the reporting procedures set forth in paragraph 7 above;

11. *Requests* the Secretary-General to submit to the General Assembly at its thirty-eighth session a report on the state of ratification of, and accessions to, the instruments referred to in paragraph 5 above, as well as the reports received and views expressed pursuant to paragraphs 7 and 9 above, and invites him to submit any views he may wish to express on these matters;

12. *Decides* to include in the provisional agenda of its thirty-eighth 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".

*107th plenary meeting
16 December 1982*

37/109. 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, as 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,²⁸

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 36/76 of 4 December 1981, 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,

Having considered the report of the *Ad Hoc* Committee on its second session,²⁹

Recognizing that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of self-determination of peoples struggling against colonialism, racism and *apartheid* and all forms of foreign domination,

Bearing in mind the pernicious impact that the activities of mercenaries have on international peace and security,

Considering that the progressive development and codification of the rules of international law on mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

Taking account of the fact that, although the *Ad Hoc* Committee has made substantial progress, it has not yet fulfilled its mandate,

Reaffirming the need for the elaboration, at the earliest possible date, of an international convention against the recruitment, use, financing and training of mercenaries,

1. *Takes note* of the report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the progress made, especially during its second session;

2. *Decides* that the *Ad Hoc* Committee shall continue its work, with the goal of drafting, at the earliest possible date, an international convention against the recruitment, use, financing and training of mercenaries;

3. *Requests* the *Ad Hoc* Committee, in the fulfilment of its mandate, to consider the suggestions and proposals of Member States, bearing in mind the views and comments submitted to the Secretary-General and those expressed at the thirty-seventh session of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the *Ad Hoc* Committee;³⁰

4. *Requests* the Secretary-General to make available to the *Ad Hoc* Committee at its third session any up-to-date and relevant documentation on the subject;

5. *Also requests* the Secretary-General to provide the *Ad Hoc* Committee with any assistance and facilities it may require for the performance of its work;

6. *Decides* that the *Ad Hoc* Committee shall hold its third session for four weeks, from 2 to 26 August 1983;

7. *Requests* the *Ad Hoc* Committee to submit its report to the General Assembly at its thirty-eighth session;

8. *Decides* to include in the provisional agenda of its thirty-eighth session the item entitled "Report of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries".

*107th plenary meeting
16 December 1982*

37/110. Review of the multilateral treaty-making process

The General Assembly,

Bearing in mind that multilateral treaties are an important means of ensuring co-operation among States and an important primary source of international law,

Conscious, therefore, that the process of elaboration of multilateral treaties, directed towards the progressive development of international law and its codification, forms an important part of the work of the United Nations and of the international community in general,

²⁸ Resolution 2625 (XXV), annex.

²⁹ *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 43 (A/37/43 and Corr.1).*

³⁰ *Ibid.*, *Thirty-seventh Session, Sixth Committee, 9th-15th, 53rd and 56th meetings.*