

and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical 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, representatives and officials;

4. *Also urges* States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, and to bring offenders to justice;

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

6. *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;

7. *Also calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

8. *Requests* all States to report to the Secretary-General in accordance with the provisions of resolution 42/154;

9. *Requests* the Secretary-General to issue a report on the item, in accordance with paragraph 12 of resolution 42/154, on an annual basis, as well as to proceed with his other tasks pursuant to the same resolution;

10. *Decides* to include in the provisional agenda of its forty-fifth 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".

76th plenary meeting
9 December 1988

43/168. Report of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries

The General Assembly,

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 and 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 42/155 of 7 December 1987, by which it decided to renew the mandate of the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries,

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, 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,⁵

Bearing in mind also that every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into another State,

Recognizing that the recruitment, use, financing and training of mercenaries by States is contrary to fundamental principles of international law, such as the duty to refrain from the threat or use of force, non-intervention in the internal affairs, territorial integrity or political independence of other States, and seriously impedes the process of self-determination of people 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 the activities of mercenaries would contribute immensely to the implementation of the purposes and principles of the Charter,

Welcoming the wide and effective participation of members of the *Ad Hoc* Committee in the work of the Committee and the participation of a large number of observers in that work,

Taking into account the work done so far by the *Ad Hoc* Committee,

Reaffirming the need for the conclusion, 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;³³

2. *Decides* to renew the mandate of the *Ad Hoc* Committee with a view to completing as soon as possible a draft international convention against the recruitment, use, financing and training of mercenaries;

3. *Requests* the *Ad Hoc* Committee, in the fulfilment of its mandate, to use the draft articles contained in chapter III of its report,³³ entitled "Third revised consolidated negotiating basis of a convention against the recruitment, use, financing and training of mercenaries" as a basis for future negotiation on the text of the proposed international convention;

4. *Invites* the *Ad Hoc* Committee to take into account the suggestions and proposals of Member States submitted to the Secretary-General on the subject and the views and

³³ Official Records of the General Assembly, Forty-third Session, Supplement No. 43 (A/43/43).

comments expressed at the fortieth,³⁴ forty-first,³⁵ forty-second³⁶ and forty-third³⁷ sessions of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the *Ad Hoc* Committee;

5. *Decides* that the *Ad Hoc* Committee shall hold its eighth session from 30 January to 17 February 1989;

6. *Also decides* that the *Ad Hoc* Committee shall accept the participation of observers of Member States, including participation in the meetings of its drafting and working groups;

7. *Requests* the Secretary-General to provide, on a priority basis, the *Ad Hoc* Committee with any assistance and facilities it may require to hold its eighth session;

8. *Reaffirms* the importance that pre-session consultations among the members of the *Ad Hoc* Committee and other interested States may have in facilitating the smooth conduct of its work towards the fulfilment of its task, *inter alia*, as regards the composition of the Bureau and the organization of work;

9. *Invites* the *Ad Hoc* Committee to make every effort to submit its final report containing a draft international convention against the recruitment, use, financing and training of mercenaries to the General Assembly if possible at its forty-fourth session;

10. *Decides* to include in the provisional agenda of its forty-fourth 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".

76th plenary meeting
9 December 1988

43/169. Report of The International Law Commission on the work of its fortieth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fortieth session,¹⁸

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth 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 Nations⁵ and to give increased importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contributions to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Considering that experience has demonstrated the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report, and that this process is facilitated when the Commission indicates specific issues on which expressions of views by Governments are of particular interest for the continuation of its work,

1. *Takes note* of the report of the International Law Commission on the work of its fortieth session;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at that session;

3. *Recommends* that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme, listed as items 2 to 8 in paragraph 7 of its report;

4. *Expresses its satisfaction* with the efforts of the International Law Commission to improve its procedures and methods of work and to formulate proposals on its future programme of work;

5. *Requests* the International Law Commission:

(a) To keep under review the planning of its activities for the term of office of its members, bearing in mind the desirability of achieving as much progress as possible in the preparation of draft articles on specific topics;

(b) To consider further its methods of work in all their aspects, bearing in mind that the staggering of the consideration of some topics might contribute, *inter alia*, to a more effective consideration of its report in the Sixth Committee;

(c) To indicate in its annual report, for each topic, those specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest for the continuation of its work;

6. *Recommends* the continuation of efforts to improve the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work;

7. *Expresses its satisfaction* at the useful informal discussions held in the framework of the *Ad Hoc* Working Group provided for under paragraph 6 of General Assembly resolution 42/156 of 7 December 1987, which dealt with questions of improving the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work, and takes note of the oral report of the Chairman of the *Ad Hoc* Working Group;³⁸

8. *Decides* that the Sixth Committee, in structuring its debate on the report of the International Law Commission at the forty-fourth session of the General Assembly, should bear in mind the possibility of reserving time for informal exchanges of views on matters relating to the Commission;

9. *Takes note* of the comments of the International Law Commission on the question of the duration of its session, as presented in paragraph 569 of its report, and expresses the view that the requirements of the work for the progressive development of international law and its

³⁴ *Ibid.*, Fortieth Session, Sixth Committee, 13th to 17th, 44th and 48th meetings.

³⁵ *Ibid.*, Forty-first Session, Sixth Committee, 25th, 26th, 46th and 47th meetings, and corrigendum.

³⁶ *Ibid.*, Forty-second Session, Sixth Committee, 12th to 15th and 55th meetings, and corrigendum.

³⁷ *Ibid.*, Forty-third Session, Sixth Committee, 22nd to 24th and 51st meetings, and corrigendum.

³⁸ *Ibid.*, 40th meeting, and corrigendum.