

relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations.

Noting that only a small number of States have so far, in response to the call by the General Assembly at its thirty-fifth, thirty-sixth and thirty-seventh 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 resolutions 36/33 of 13 November 1981 and 37/108 of 16 December 1982 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. *Emphasizes* the importance of enhanced awareness throughout the world of the necessity of ensuring the protection, security and safety of such missions, representatives and officials, as well as of the role of the United Nations in this regard;
4. *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 to ensure effectively 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;

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. *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;

8. *Requests*:

(a) All States to report to the Secretary-General as promptly as possible 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, to the extent applicable, the State where the alleged

offender is 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;

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

10. *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;

11. *Also requests* the Secretary-General, when a serious violation has been reported pursuant to paragraph 8 (a) above, to draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 8 above;

12. *Further requests* the Secretary-General to submit to the General Assembly at its thirty-ninth session a report on the state of ratification of, and accessions to, the instruments referred to in paragraph 6 above, as well as the reports received and views expressed pursuant to paragraphs 8 and 10 above, and invites him to submit any views he may wish to express on these matters;

13. *Decides* to include in the provisional agenda of its thirty-ninth 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".

*101st plenary meeting
19 December 1983*

38/137. 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, 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,³⁸

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 37/109 of 16 December 1982, 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.

³⁸ Resolution 2625 (XXV), annex.

Having considered the report of the *Ad Hoc* Committee on its third session,³⁹

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 by the *Ad Hoc* Committee, especially during its third 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-eighth session of the General Assembly during the debate in the Sixth Committee devoted to the consideration of the report of the *Ad Hoc* Committee, including the various views expressed on the definition of the term "mercenary";⁴⁰

4. Invites the *Ad Hoc* Committee to take into account the draft articles contained in paragraph 56 of its report³⁹ for the elaboration of the provisions relating to the scope of the convention, the definition of the term "mercenary" and the obligations of States, as well as the proposals which have been made and which may be submitted at its next session;

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

6. 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, such as preparing a topical summary of the discussions that have taken place in the Sixth Committee during the thirty-eighth session of the General Assembly;

7. Decides that the *Ad Hoc* Committee shall hold its fourth session for four weeks, from 30 July to 24 August 1984;

8. Requests the *Ad Hoc* Committee to make every effort to complete its mandate at its fourth session;

9. Also requests the *Ad Hoc* Committee to submit its report to the General Assembly at its thirty-ninth session;

10. Decides to include in the provisional agenda of its thirty-ninth 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".

101st plenary meeting
19 December 1983

38/138. Report of the International Law Commission

The General Assembly.

Having considered the report of the International Law Commission on the work of its thirty-fifth session,⁴¹

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 Nations⁴² and to give increasing importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics which 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 contemporary international community, may be suitable for progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

1. Takes note of the report of the International Law Commission on the work of its thirty-fifth 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 all the topics in its current programme;

4. Expresses its satisfaction with the conclusions and intentions of the International Law Commission concerning its procedures and methods of work, as reflected in paragraphs 305 to 307 and 310 to 314 of its report;⁴¹

5. Reaffirms its previous decisions concerning the increased role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the documentation of the International Law Commission and endorses the request of the Commission contained in paragraph 310 of its report;

6. Appeals to Governments and, as appropriate, to international organizations to respond as fully and expeditiously as possible to the requests of the International Law Commission for comments, observations and replies to questionnaires and for materials on topics in its programme of work;

7. Reaffirms its wish that the International Law Commission continue to enhance its co-operation with inter-governmental legal bodies whose work is of interest for the

³⁹ Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 43 (A/38/43).

⁴⁰ *Ibid.*, Thirty-eighth Session, Sixth Committee, 19th-29th and 57th-61st meetings; and *ibid.*, Sixth Committee, Sessional Fascicle, corrigendum.

⁴¹ *Ibid.*, Thirty-eighth Session, Supplement No. 10 (A/38/10).

⁴² Resolution 2625 (XXV), annex.