

Having considered the report of the *Ad Hoc* Committee on its third session,<sup>39</sup>

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",<sup>40</sup>

4. Invites the *Ad Hoc* Committee to take into account the draft articles contained in paragraph 56 of its report<sup>39</sup> 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".

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### 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,<sup>41</sup>

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 Nations<sup>42</sup> 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;<sup>41</sup>

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

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

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

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

<sup>42</sup> Resolution 2625 (XXV), annex.

progressive development of international law and its codification;

8. *Expresses the wish* that seminars will continue to be held in conjunction with sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars;

9. *Requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the thirty-eighth session of the General Assembly<sup>43</sup> and to prepare and distribute a topical summary of the debate.

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### 38/139. United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

*The General Assembly,*

*Recalling* its resolution 37/112 of 16 December 1982, by which it decided that an international convention should be concluded on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission at its thirty-fourth session,<sup>44</sup>

*Recalling further* that, by its resolution 37/112, it agreed to decide at its thirty-eighth session upon the appropriate forum for the adoption of the convention in the light of the comments received in accordance with that resolution,

*Having received* the report of the Secretary-General<sup>45</sup> which contains the comments and observations submitted by a number of States and principal international intergovernmental organizations, in accordance with General Assembly resolution 37/112, and having further received the statement adopted by the Administrative Committee on Co-ordination,<sup>46</sup>

1. *Decides* that the appropriate forum for the final consideration of the draft articles on the law of treaties between States and international organizations or between international organizations, adopted by the International Law Commission at its thirty-fourth session, shall be a conference of plenipotentiaries to be convened not earlier than 1985;

2. *Agrees* to decide at its thirty-ninth session upon the question of the date and place for the convening of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations, as well as upon the question of participation in the Conference;

3. *Invites* States that have not already done so to submit, not later than 1 July 1984, their written comments and observations on the final draft articles on the law of treaties between States and international organizations or between international organizations prepared by the International Law Commission, as well as on the questions referred to in paragraph 60 of the report of the Commission on the work of its thirty-fourth session;<sup>44</sup>

4. *Invites also* the principal international intergovernmental organizations that have not already done so to sub-

mit, within the same period, their written comments and observations on the subject;

5. *Requests* the Secretary-General to circulate such comments so as to facilitate the discussion on the subject at the thirty-ninth session of the General Assembly;

6. *Appeals* to potential participants in the Conference to undertake consultations on the draft articles concerned and other related questions prior to the thirty-ninth session of the General Assembly, in order to facilitate the successful conclusion of the work of the Conference;

7. *Decides* to include in the provisional agenda of its thirty-ninth session an item entitled "United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations".

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### 38/140. Report of the Committee on Relations with the Host Country

*The General Assembly,*

*Having considered* the report of the Committee on Relations with the Host Country,<sup>47</sup>

*Recalling* Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations<sup>48</sup> and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,<sup>49</sup>

*Recalling further* that the problems related to the privileges and immunities of all missions accredited to the United Nations, the security of the missions and the safety of their personnel are of great importance and concern to Member States, as well as the primary responsibility of the host country,

*Noting with deep concern* the continued acts violating the security and the safety of the personnel of those missions accredited to the United Nations,

*Recognizing* that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations of the Committee on Relations with the Host Country contained in paragraph 60 of its report;<sup>47</sup>

2. *Strongly condemns* any acts violating the security of missions accredited to the United Nations and their personnel;

3. *Urges* the host country to continue to take all necessary measures to ensure effectively the protection, security and safety of the missions accredited to the United Nations and their personnel, including practicable measures to prohibit illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts and activities against the security and safety of such missions and representatives;

4. *Recalls* that continued adherence to the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations remains an indispensable condition for the normal functioning of the Organization;

<sup>43</sup> Official Records of the General Assembly, Thirty-eighth Session, Sixth Committee, 34th, 36th-50th, 54th and 70th meetings; and *ibid.*, Sixth Committee, Sessional Fascicle, corrigendum.

<sup>44</sup> *Ibid.*, Thirty-seventh Session, Supplement No. 10 (A/37/10), chap. II.

<sup>45</sup> A/38/145 and Corr.1 and Add.1.

<sup>46</sup> A/C.6/38/4, annex.

<sup>47</sup> Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 26 (A/38/26).

<sup>48</sup> Resolution 22 A (I).

<sup>49</sup> Resolution 169 (II).