



Human Rights Council

Tenth Session

Resolution 10/11. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Human Rights Council,

Recalling all previous resolutions adopted by the General Assembly, the Human Rights Council and the Commission on Human Rights on the subject, including General Assembly resolution 63/164 of 18 December 2008 and Council resolution 7/21 of 28 March 2008, in which the mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination was extended for a period of three years and its tasks were outlined,

Recalling also all relevant resolutions that, inter alia, condemn any State that permits or tolerates the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council, the African Union and the Organization of African Unity, inter alia, the Convention for the Elimination of Mercenarism in Africa,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right to determine freely their political status and to pursue freely their economic, social and cultural development,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter,

Alarmed and concerned about the threat posed by the activities of mercenaries to peace and security in developing countries in various parts of the world, in particular in areas of conflict,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary international criminal activities,

Extremely alarmed and concerned about recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity and respect of the constitutional order of the affected countries,

Convinced that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire a semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

2. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third powers, inter alia, encourage the demand for mercenaries on the global market;

3. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples;

4. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, and to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

5. *Calls upon* all States that have not yet done so to consider taking the necessary action to become parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

6. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

7. *Invites* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur;

8. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of these countries and the exercise of the right to self-determination of their peoples, and commends the Governments of Africa for their collaboration in thwarting these illegal actions;

9. *Calls upon* the international community, in accordance with its obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

10. *Acknowledges with appreciation* the work and contributions made by the Working Group, and takes note with appreciation of its latest report (A/HRC/10/14);

11. *Requests* the Working Group to continue the work already done by the previous special rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report submitted to the Commission on Human Rights at its sixtieth session (E/CN.4/2004/15);

12. *Notes with appreciation* the work of the Working Group on its elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security-related services on the international market, carried out by the Working Group after country visits and through the process of regional consultations, and consultation with academics and intergovernmental and non-governmental organizations, and reflected in the reports of the Working Group submitted to the General Assembly at its sixty-third session and to the Council at its tenth session;

13. *Requests* the Working Group:

(a) To consult with intergovernmental and non-governmental organizations, academic institutions and experts on the content and scope of a possible draft convention on private companies offering military assistance, consultancy and other military security-related services on the international market, and an accompanying model law, and other legal instruments;

(b) To share with Member States, through the Office of the United Nations High Commissioner for Human Rights, elements for a possible draft convention on private military and security companies, to request their input on the content and scope of such a convention and to transmit their replies to the Working Group;

(c) To report to the Council at its fifteenth session on the progress achieved in the elaboration of the draft legal instrument for proper consideration and action;

14. *Requests* the Office of the High Commissioner, as a matter of priority, to publicize the adverse effects of the activities of mercenaries and private companies offering military assistance, consultancy and other military security-related services on the international market on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

15. *Expresses* its appreciation to the Office of the High Commissioner for its support for convening in the Russian Federation the regional governmental consultation for States in the Eastern European Group and Central Asia region on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

16. *Requests* the Office of the High Commissioner to continue to support the Working Group when convening regional governmental consultations on this matter, in conformity with paragraph 15 of General Assembly resolution 62/145, with the remaining three to be held before the end of 2010, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of

the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the protection and promotion of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

17. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

18. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

19. *Requests* the Working Group to consult States, intergovernmental organizations, non-governmental organizations and other relevant actors of civil society in the implementation of the present resolution and to report its findings on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to the General Assembly at its sixty-fourth session and to the Council at its fifteenth session;

20. *Decides* to continue its consideration of this matter under the same agenda item at its fifteenth session.

*42nd meeting
26 March 2009*

[Adopted by a recorded vote of 32 to 12, with 3 abstentions. The voting was as follows:

In favour: Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uruguay, Zambia;

Against: Bosnia and Herzegovina, Canada, France, Germany, Italy, Japan, Netherlands, Republic of Korea, Slovakia, Slovenia, Ukraine, United Kingdom of Great Britain and Northern Ireland;

Abstaining: Chile, Mexico, Switzerland.]
