

AG/RES. 2507 (XXXIX-O/09)

PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

(Adopted at the fourth plenary session, held on June 4, 2009)

THE GENERAL ASSEMBLY,

RECALLING resolutions AG/RES. 1270 (XXIV-O/94), AG/RES. 1335 (XXV-O/95), 1408 (XXVI-O/96), AG/RES. 1503 (XXVII-O/97), AG/RES. 1565 (XXVIII-O/98), AG/RES. 1619 (XXIX-O/99), AG/RES. 1706 (XXX-O/00), AG/RES. 1709 (XXX-O/00), AG/RES. 1770 (XXXI-O/01), AG/RES. 1771 (XXXI-O/01), AG/RES. 1904 (XXXII-O/02), AG/RES. 1944 (XXXIII-O/03), AG/RES. 2052 (XXXIV-O/04), AG/RES. 2127 (XXXV-O/05), AG/RES. 2226 (XXXVI-O/06), AG/RES. 2231 (XXXVI-O/06), AG/RES. 2293 (XXXVII-O/07), and AG/RES. 2433 (XXXVIII-O/08);

RECALLING ALSO that, under the Charter of the Organization of American States (OAS) and pursuant to all applicable provisions of international humanitarian law and international human rights law within their respective spheres of application, human rights and fundamental freedoms must always be respected, including in situations of armed conflict;

DEEPLY CONCERNED that in various parts of the world violations of international humanitarian law persist, causing suffering to victims of armed conflict, particularly the civilian population;

ACKNOWLEDGING the adoption of United Nations General Assembly resolution 63/240, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms," which established an open-ended working group to facilitate consideration of this topic by all Member States in order to be able to conclude a legally binding treaty on trade in conventional weapons;

RECALLING that it is the obligation of all member states, in all circumstances, as states parties to the four Geneva Conventions of 1949, to respect and ensure respect for international humanitarian law, and that the rules and principles set forth in those instruments are binding on all parties to an armed conflict;

CONSIDERING that international humanitarian law contains provisions that reflect customary international law which states must observe;

EMPHASIZING that in cases of serious violations of international humanitarian law constituting crimes under international law, states have the fundamental duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for such violations and, if said person is found guilty, the duty to punish him or her, including, when applicable, through the imposition of penal sanctions, in order to prevent impunity and future violations;

UNDERSCORING the need to strengthen the rules and principles of international humanitarian law by means of their universal acceptance, their broader dissemination, and the adoption of national measures for their effective application;

EMPHASIZING WITH SATISFACTION the universal adoption of the four Geneva Conventions of 1949, on the protection of victims of war, to which 194 states are now party, including all member states of the Organization;

RECALLING that 33 and 32 OAS member states are parties, respectively, to Additional Protocols I and II thereto, of 1977;

WELCOMING the 60th anniversary of the adoption of the four 1949 Geneva Conventions, and recalling the 150th anniversary of the Battle of Solferino, an event that heightened the awareness of the international community that efforts should be made to prevent the humanitarian consequences of conflicts from affecting those who do not take part or no longer take part in them;

URGING member states to become parties to the Additional Protocol to the Geneva Conventions of 1949, on the adoption of an additional distinctive emblem (Additional Protocol III), taking into consideration that nine member states in the region have already done so;

RECALLING that 11 member states have issued the declaration envisioned in Article 90 of Additional Protocol I, of 1977, on recognition of the competence of the International Humanitarian Fact-Finding Commission;

TAKING NOTE of the Report of the Secretary-General of the United Nations (A/63/118 and A/63/118 add. 1) and of resolution 63/125 of the United Nations General Assembly, both of them on the status of the Additional Protocols to the Geneva Conventions of 1949 relating to the protection of victims of armed conflicts;

AWARE of the Hemisphere's rich cultural heritage, which contains cultural assets recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as world heritage, and which would benefit from the systems for the promotion and protection of international humanitarian law;

NOTING that 10 states have ratified or acceded to, as the case may be, the International Convention for the Protection of All Persons from Enforced Disappearance, adopted on December 20, 2006, by the United Nations General Assembly, six of which are states of the Hemisphere, and that 20 ratifications are needed for the Convention to enter into force;

RECALLING the 10th anniversary of the entry into force of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention), on December 3 and 4, 1997;

RECOGNIZING the important advisory work of the national committees or commissions on international humanitarian law as part of the efforts of states in the area of promotion of and respect for that law, and that 18 member states of the Organization have such bodies;

RECALLING the Regional Conference for Latin America and the Caribbean on Cluster Munitions, held in Quito, Ecuador, on November 6 and 7, 2008;

RECOGNIZING the adoption of the Convention on Cluster Munitions on May 30, 2008, in Dublin, Ireland, and its signing by 94 states, 15 of which are member states, with Mexico becoming the first state to ratify it, at the signing ceremony held in Oslo, Norway, on December 3 and 4, 2008;

RECOGNIZING ALSO the efforts made by the Group of Governmental Experts of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980, to develop an instrument that fully addresses the consequences of cluster munitions;

NOTING WITH CONCERN the new situations that arise in the context of armed conflicts, such as the use of military and private security companies, and noting that there are initiatives in which some countries of the region participate, aimed at dealing with international legal obligations and best practices of states related to the operations of such companies; and

EMPHASIZING the special role of the International Committee of the Red Cross (ICRC) as a neutral, impartial, and independent institution working to protect and assist the victims of armed conflicts and other situations of armed violence, as well as to promote respect for the rules and principles of international humanitarian law,

RESOLVES:

1. To urge member states and the parties engaged in armed conflict to honor and fulfill their obligations under international humanitarian law, including those pertaining to safeguarding the life, well-being, and dignity of protected persons and property, and the proper treatment of prisoners of war.

2. To urge those member states that have not yet done so to consider becoming parties to the following treaties, among others:

- a. The Convention for the Protection of Cultural Property in Time of Armed Conflict (Hague Convention, 1954), and its Protocols of 1954 and 1999;
- b. The 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity;
- c. The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention);
- d. The 1977 Protocols I and II Additional to the Geneva Conventions of 1949, as well as Additional Protocol III, of 2005, including the declaration contained in Article 90 of Additional Protocol I;
- e. The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW) of 1980, including the amendment to Article 1 thereof, adopted in 2001, and the five protocols thereto;
- f. The 1989 Convention on the Rights of the Child and the 2000 Optional Protocol thereto on the involvement of children in armed conflict;

- g. The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention);
- h. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention);
- i. The 1998 Rome Statute of the International Criminal Court; and
- j. The International Convention for the Protection of All Persons from Enforced Disappearance.

3. To invite the member states to disseminate as widely as possible the rules and principles of international humanitarian law, in particular by incorporating them into military doctrine and manuals, so that armed forces will have the means and mechanisms necessary for their effective application, and by making use of the pertinent media so that such law may be familiar to the civilian population.

4. To urge the member states to adjust their criminal law in order to meet their legal obligations under the 1949 Geneva Conventions and, in the case of the states parties thereto, the 1977 Additional Protocol I thereto and the Rome Statute of the International Criminal Court, with respect to the definition of war crimes, universal jurisdiction for these grave breaches, and the responsibility of superiors for the acts of their subordinates, among other pertinent provisions.

5. Also to urge the member states that have not yet done so to adopt, in accordance with their internal law and pursuant to international law, legislative or other measures necessary to establish non-applicability of statutory limitations to the most serious violations of international humanitarian law constituting crimes under international law.

6. To invite the member states that are parties to the Rome Statute to cooperate fully with the International Criminal Court and to define under their domestic criminal law the crimes that are within its jurisdiction.

7. To call upon the member states to enact laws to regulate the use of and respect for—and to prevent and, when applicable, punish the misuse of—the Red Cross, Red Crescent, and, where applicable, Red Crystal emblems, as well as their denominations, as established in relevant treaties.

8. To urge member states, in keeping with their obligations under international law, to adopt effective measures to prevent the disappearance of persons in cases of armed conflict or other situations of armed violence, to determine the fate of those who have disappeared, and to attend to the needs of their family members.

9. To encourage member states to ensure the adoption of the necessary measures and mechanisms to protect cultural property from the effects of armed conflict, in accordance with the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two protocols and other international obligations, and in particular to give consideration to the adoption of preventive measures related to the preparation of inventories, the planning of emergency measures, the appointment of competent authorities, and the enactment of laws to ensure respect for such property.

10. To remind those member states that are parties to the 1997 Ottawa Convention of their obligation to prevent and suppress any activity prohibited therein when it is carried out by persons or in territory under their jurisdiction or control, and of the importance of addressing the needs of victims of antipersonnel mines and, where appropriate, victims of explosive remnants of war, considering, as part of those needs, medical care, rehabilitation, and economic and social reintegration of the victims.

11. To urge member states and non-member states to participate at the highest possible level, as parties or observers, in the Second Review Conference of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention), to be held from November 30 to December 4, 2009, in Cartagena, Colombia.

12. To urge member states to adopt legislative and other measures, including criminal legislation, to strengthen national institutions and coordination among national institutions, and regional and subregional cooperation, for implementation of the 1925 Geneva Protocol, the 1972 Biological Weapons Convention, and the 1993 Chemical Weapons Convention, *inter alia* by adopting or developing codes of conduct and of professional ethics for the scientific and industrial community, with the aim of preventing misuse in the context of advances in bioscience and biotechnology research, and considering national, regional, and international measures to improve biosafety and biosecurity, including laboratory safety and the security of pathogens and toxins.

13. To remind member states that are parties to the various international instruments that prohibit or restrict, for humanitarian reasons, the use of certain arms, of their obligations under those instruments, including the prevention and suppression of any prohibited action as well as, as appropriate, the provision of proper care to victims.

14. To invite member states to step up their efforts to strengthen safeguards for civilians against the use and indiscriminate effects of arms and munitions in general, especially through the adoption of laws aimed at strengthening control over the illicit manufacturing of and trafficking in firearms and other related materials.

15. To call upon member states to adopt all necessary measures to comply with their respective international obligations regarding the recruitment and use of children in armed forces or armed groups and to prevent their participation in hostilities, in accordance with rules and principles of international humanitarian law, international human rights law, and international refugee law.

16. To invite member states that have not yet done so to consider signing the Convention on Cluster Munitions; and to invite member states that have done so to ratify it as soon as possible, with a view to its prompt entry into force; also to invite member states to continue participating in the Group of Governmental Experts of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980, in order to develop an instrument that fully addresses the consequences of cluster munitions.^{1/}

^{1/} The delegation of Brazil supports all initiatives aimed at strengthening existing international humanitarian law provisions governing the use of weapons and the difference between military and civilian purposes. With respect to cluster munitions, Brazil prefers to debate the issue within

17. To encourage member states to establish procedures for determining, when studying, developing, acquiring, or adopting a new weapon or new means or methods of warfare, whether using, manufacturing, stockpiling, exporting, or transferring them would be contrary to international humanitarian law, and, in that event, to prohibit their use by the armed forces and their manufacture for such purposes.

18. To encourage interested member states to participate in the meetings of the open-ended working group established by United Nations General Assembly resolution 63/240, so as to be able to conclude a legally binding treaty on the import, export, and transfer of conventional arms.

19. To invite member states to continue to support the work of national committees or commissions responsible for the implementation and dissemination of international humanitarian law; and to urge any state without such a body to consider establishing one, as a means of preventing conflicts and strengthening international humanitarian law.

20. To express its satisfaction with the cooperation between the Organization of American States (OAS) and the International Committee of the Red Cross (ICRC) in promoting respect for international humanitarian law and the principles that govern that law; and to urge the General Secretariat to continue to strengthen such cooperation.

21. To request the Inter-American Juridical Committee (CJI) to continue preparing and to propose model laws to support the efforts made by member states to fulfill obligations under international humanitarian law treaties, on the basis of priority topics determined in consultation with the member states and the ICRC; to that end, member states are urged to forward to the CJI, by the end of November 2009, a list of such priority topics, to enable the Committee to carry out that mandate in due course and report to the General Assembly at its fortieth regular session on the progress made.

22. To request the General Secretariat to continue organizing, within the framework of the Committee on Juridical and Political Affairs (CAJP), through the Department of International Law and in coordination with the ICRC, courses and seminars for staff of the permanent missions to the OAS and for General Secretariat staff and the general public, in order to promote knowledge of and respect for international humanitarian law and related regional instruments, including measures for their effective implementation.

23. To instruct the Permanent Council to hold, with support from the Department of International Law and in cooperation with the ICRC, a special meeting with a high-level dialogue in which the permanent representative of each member state may participate, on topics of current interest in international humanitarian law, prior to the fortieth regular session of the General Assembly.

24. To invite member states to continue, within the high-level dialogue of the special meeting and in pertinent forums, the discussion of topics of interest to the region, urging the CAJP to present the agenda for the special meeting to the member states sufficiently in advance.

25. To request the Permanent Council to report to the General Assembly at its fortieth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.