UNITED NATIONS

EIGHTH
UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS

Havana, Cuba, 27 August to 7 September 1990

Distr.
GENERAL

A/CONF.144/7
26 July 1990

ORIGINAL: ENGLISH

Item 5 of the provisional agenda*

EFFECTIVE NATIONAL AND INTERNATIONAL ACTION AGAINST: (a) ORGANIZED CRIME; (b) TERRORIST CRIMINAL ACTIVITIES

Proposals for concerted international action against forms of crime identified in the Milan Plan of Action

Report of the Secretary-General

*A/CONF.144/1.

V.90-86760 6884T

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INTRODUCTION

1. The Economic and Social Council, in resolution 1986/10, section I, of 21 May 1986, urged the Secretary-General to accord priority to the development of specific proposals to co-ordinate concerted international action against the forms of crime identified in the Milan Plan of Action, 1/ and to transmit such proposals to the Committee on Crime Prevention and Control at its tenth session. In addition, the General Assembly, in resolution 41/107 of 4 December 1986, invited Member States and the Secretary-General, in implementing the results of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to accord priority attention to the forms of crime identified in the Milan Plan of Action. This request for priority was reiterated in Economic and Social Council resolution 1987/53 of 27 May 1987 and in General Assembly resolutions 42/59 of 30 November 1987, 43/99 of 8 December 1988 and 44/72 of 8 December 1989.

2. The present report contains a preliminary analysis of the phenomenon of transboundary criminality, together with suggestions for concerted international action, as requested by Economic and Social Council resolution 1989/62 of 24 May 1989. This report updates the information contained in the document that was originally submitted to the Committee on Crime Prevention and Control at its tenth session (E/AC.57/1988/16), for consideration by the Eighth Congress, under provisional agenda items 3 and 5.

3. In addition to identifying five clusters of criminal phenomena whose consequences have a transboundary character, the report also summarizes a number of international initiatives directed at coping with the unique challenges resulting from the internationalization of criminal activities. In the light of recent developments, it appears that none of these initiatives has been either sufficiently comprehensive or incisive to have an impact on the problems at hand. This inadequacy seems to derive from a variety of factors, such as the political and juridical heterogeneity that characterizes the contemporary world and the reliance on centuries-old constructs that have regulated the relations between countries, such as sovereignty and territorial jurisdiction.

4. It is thus becoming more and more evident that intensified international co-operation is a major and indispensable component of the struggle against international criminality. Such co-operation may take a variety of forms, and can be organized in different ways to address particularly serious priority issues. To be effective, however, it requires not only a reformulation of entrenched traditional concepts, but also realism and commitment. The United Nations could play a decisive role in this respect, helping to facilitate new developments and more reliable policy options.

5. An alarming increase in transnational criminal activities has taken place in recent decades. This new international dimension of crime has emerged, to a considerable extent, as the reflection and outcome of modern advances in electronic and transportation technologies, which have brought about the development of instant communication over great distances, as well as the massive displacement of goods and persons. Thus, licit international trade and commerce and world-wide travel have been paralleled by the rapid growth of an international criminality that utilizes the same means of transport and communication. The transnational expansion of criminal and harmful activities has rapidly become a major source of concern for the international community. Its negative consequences on national and international social, political and economic structures and processes, and the apparent inadequacy of current prevention and control mechanisms to deal with this kind of transboundary phenomenon is becoming a source of grave concern.

6. In response to this mounting preoccupation, the Milan Plan of Action 1/ recommends, inter alia, that priority should be given to combating terrorism, in all its forms, through co-ordinated and concerted action by the international community, and that a major effort to control and eradicate the illicit drug traffic and organized crime be undertaken. The Milan Plan of Action further affirms, inter alia, that crime is a major problem of international dimensions, demanding a concerted response from the international community, and urges the extension of technical co-operation activities to help developing countries to cope with this threat.

7. The Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, also adopted by the Seventh Congress, 2/ formulates recommendations for national, regional and international action. Many of these recommendations are, directly or indirectly, closely related to the issues of transnational criminality discussed in the present report, such as harmful crimes (principle 6), criminal negligence in matters pertaining to public health, the exploitation of natural resources and the environment (principle 7), economic crime (principle 8), corporate responsibility (principle 9) and international co-operation in crime prevention and criminal justice (principles 36 to 47).

8. Furthermore, the Seventh Congress also approved by consensus the following resolutions: 1 on organized crime; 2 on the struggle against illicit drug trafficking; 3 on international co-operation in drug abuse control; 5 on technical co-operation in the field of crime prevention and criminal justice; 22 on crime prevention in the context of development; and 23 on criminal acts of a terrorist character. 3/ These and other decisions and resolutions of the Seventh Congress were unanimously endorsed by the General Assembly in its resolution 40/32 of 29 November 1985.

I. INTERNATIONAL ASPECTS AND DIMENSIONS OF CONTEMPORARY CRIMINALITY

9. The term "international crime" is generally used in relation to violations of established international conventions, whereas "transnational crime" is an expression used to cover, in a less formal manner, a much wider area of illicit conduct. This difference notwithstanding, the two terms will be used more or less interchangeably in this report.

10. The growing internationalization of crime is the result of the extension of operations to foreign countries by criminal organizations or other entities. It may result from more or less formal co-operative agreements establishing extensive transnational networks in which two or more nationally based organizations come together. In other cases, the international character reflects the nature of the transactions, as when illegal goods and services are exported or imported. The internationalization may also be the consequence of natural forces, such as wind and water, that "export" the results of licit or illicit undertakings.

11. Crimes and harmful acts possessing an international character may be grouped in five clusters, as follows: (a) internationally organized, mafia-type crimes with profit as the ultimate aim; (b) terrorist activities of a transnational nature; (c) economic offences involving operations and transactions in more than one country; (d) transnational illicit trade in art objects belonging to the cultural and religious patrimony of a nation; and (e) activities that, through pollution or otherwise, affect the ecological balance and environmental viability of more than one country.

A. Organized crime

12. The term organized crime usually refers to large-scale and complex criminal activities carried out by tightly or loosely organized associations and aimed at the establishment, supply and exploitation of illegal markets at the expense of society. Such operations are generally carried out with a ruthless disregard of the law, and often involve offences against the person, including threats, intimidation and physical violence.

13. In the past, organized criminality was rarely considered a problem outside the society in which it was rooted. In the last few decades, however, it has come to the forefront of the attention of the international community because of the transnational ramifications of drug trafficking. Criminal organizations have projected their ability to inflict social damage by exploiting the demand for drug consumption in societies other than their own. These organizations have become international enterprises by virtue of their transnational dealings and the assets and influence derived from the unprecedented profits of drug trafficking. 4/

14. More specifically, the increasing internationalization of crime is evidenced by the extension of its operations to additional developed countries, 5/ and a much larger number of developing countries, both as new sources and as new markets for the goods and services provided by the criminal organizations, 6/ and its emergence in Eastern European countries. 7/ The damage inflicted on the economic apparatus, political system and social stability of all affected countries is destabilizing, particularly for the more vulnerable and fragile structures of developing countries. 8/

15. Organized crime networks are extremely effective in reducing detection and increasing overall profitability. While rivalry over the monopoly of certain markets and the absence of arbitration mechanisms may on occasion erupt in violent gang wars aimed at the elimination of competitors, these internal conflicts seldom succeed in undermining the division of labour and the overall power and organizational structure of organized crime.

16. Illicit world markets permit the exchange of a large variety of illegal goods and services. In this process, the management of the criminal operations involved has come to resemble closely the methods and techniques of contemporary business enterprises. This application of modern management techniques to the perpetration of criminal undertakings has further increased the overall efficiency of the entire criminal network, a fact reflected in the very high levels of profit yielded by these activities. In one major industrialized country, for instance, the net income of organized crime, that is to say, the gross revenues less such overhead costs as salaries, transportation, entertainment and payoffs, was, in 1986, conservatively estimated, by an official commission, to amount to $US 30 billion a year. 9/

17. The transnational activities of organized crime include, inter alia, illicit drug trafficking; traffic in persons for the purposes of sexual enslavement or economic exploitation and, increasingly in recent years, illegal adoption of children; large-scale counterfeiting, illicit currency manipulations, illegal transfer of capital and of unlawfully acquired assets, fraudulent bankruptcy and large-scale maritime insurance fraud; smuggling; and certain modern versions of piracy. 10/ The near future may witness substantial additions to this list, as new fashions emerge and as technological advances continue.

18. International efforts to combat organized criminality are still in a nascent stage. Although at the national level most of the conduct engaged in by organized crime is subject to existing substantive criminal norms, on an international scale most of this anti-social conduct is yet to be defined as an international offence.

19. At the national level, experience indicates that organized crime is a problem caused not so much by the absence of substantive and procedural criminal law but by public apathy, official acquiescence in and connivance with criminal activities through the corrupting influences of organized crime. The problem is compounded by the bureaucratic divisions of the various criminal justice system agencies, the gaps between the components of the system, and their general inefficiency and ineffectiveness.

20. Two common negative consequences of the international operations of organized crime require special attention: massive and widespread corruption, and large-scale infiltration of legal business.

21. With respect to corruption, bribery of public officials at all levels and of influential politicians is a favourite instrument employed by organized crime in its drive to ensure protection and escape detection, and to avoid disruption of its international activities. The destructive impact of these practices on the moral fabric of the societies affected can hardly be exaggerated. Thus, widespread corruption destroys all sense of duty among the public officials involved and results in the demoralization of the general public. The rule of law is weakened and an opportunistic attitude gains the upperhand.

22. The control of corruption, whether associated or not with the transnational activities of organized crime, must be seen, therefore, as one of the major tasks in the struggle against criminality. The difficulties encountered in this endeavour are considerable, particularly in view of the key positions occupied by the beneficiaries of corruption within the national administrations and political structures of some countries, a fact tending to neutralize many prevention and control programmes.

23. The infiltration of legitimate businesses serves as an additional risk-reduction tactic. It is designed to satisfy the pressing need of organized crime to launder at least part of the huge profits yielded by their national and international operations. It has been determined that only the smaller part of such profits is used for the continuation of the criminal activities in question and that the larger share, channelled through off-shore financial centres, goes into overseas holdings and is absorbed in the international flow of capital. 11/ Finally, the penetration of legitimate business operations, in particular those engaged in international commerce, offers organized crime less risky transportation channels for their illicit merchandise.

24. Bank secrecy, as provided by certain countries, represents a powerful obstacle to the detection of illegal funds. To this has to be added the possibility of opening anonymous bank accounts, as permitted in several countries.

B. Criminal acts of a terrorist character

25. For present purposes, international terrorism may be described as terrorist acts, the author or authors of which plan their actions, are directed or come from, flee to and seek refuge in, or otherwise receive any form of assistance from a country or countries other than the one in which the acts themselves take place.

26. In a world characterized by instant communication, rapid technological change and increasing geographical mobility, the opportunities and means for such acts have multiplied. At the same time, the impact and lethal nature of terrorist attacks have greatly increased as a consequence of certain developments in weaponry and explosives. Terrorist groups are becoming increasingly sophisticated and have succeeded, thanks to the assistance of some Governments, in acquiring chemical and other weapons and in using advanced electronics in their equipment. 12/ In spite of the considerable resources allocated by governmental authorities to their prevention and control, a proliferation of such activities has occurred in recent decades. 13/

27. Attempts at devising international mechanisms capable of coping with the challenge of terrorism were initiated before the Second World War. Thus, after the assassination of King Alexander of Yugoslavia and the French Foreign Minister, Louis Barthou, at Marseilles, in 1934, the Council of the League of Nations established a committee of experts to study the problem. The resulting International Conference on the Repression of Terrorism adopted a Convention against Terrorism on 16 November 1937, the Protocol to which contained a statute for an international criminal court. "It was the first time that an international convention set aside the dogma of sovereignty of States to establish the supremacy of international penal judgements which previously had been the exclusive province of national jurisdictions." 14/ The Convention, unfortunately, never entered into effect, since it was ratified by only one country.

28. The Fourth Congress, in 1970, dealt with the increased terrorist activity, although the topic was not contained in the formal agenda. Thus, hijackings and kidnappings as a means of obtaining unlawful concessions from Governments were mentioned in the discussion as examples of new and emergent forms of crime. 15/

29. By the time of the Fifth Congress, in 1975, the marked increase in terrorist activities in the intervening years motivated the inclusion of the subject in the agenda (item 5): "Changes in the forms and dimensions of criminality - transnational and national". In the discussion of the subtopic dealing with terrorism, it was emphasized that international terrorism, of whatever kind, was an area of concern to the United Nations. There was also agreement that measures should be studied with a view to strengthening criminal justice by: (a) extending universal jurisdiction to all such crimes, as was already the case for air piracy, especially if they endangered the lives of innocent persons; (b) ensuring the observance of extradition laws; (c) reinforcing the operational capacity and technical co-operation of the International Criminal Police Organization (Interpol) through mutual exchange of information and assistance. 16/

30. The internationalization of terrorist activities has occurred against a background of tension and conflicts between countries, and often in conjunction with unresolved grievances on the part of ethnic or social groups, which feel, rightly or wrongly, that their legitimate aspirations are being denied by the prevailing political structures and by the existing distribution and relations of power within a given society. It is precisely this context that appears to constitute the major obstacle to the establishment of effective international co-operation for the eradication of transnational terrorism. 17/ This is particularly alarming in view of growing evidence indicating the establishment of much closer international co-operation between terrorist organizations.

31. The greater efficiency and destructive power evidenced by terrorism in recent years and the greater operational capability attained through the international co-ordination of terrorist groups 18/ constitute a particularly dangerous development in view of the marked vulnerability of contemporary society to carefully aimed acts of sabotage. This is, in part, the outcome of the growing reliance of complex systems on electronic information processing. The application of electronic systems has become so widespread for military operations and other applications that modern social and economic order is becoming unthinkable without it. This extensive reliance on ever more rapid and more efficient computers, which is having a positive impact in many areas of human society and in numerous countries, can be exploited by terrorist organizations to wreak havoc on the social order. As computer experts, known as hackers, have demonstrated, in recent years, nothing guarantees that terrorists cannot penetrate the most protected system and cause widespread chaos and even loss of human life. 19/

32. One of the main objectives of terrorist organizations is the publicity obtained by their attacks. As a result, the visibility of the target adds propaganda value to the enterprise. It is, therefore, indispensable to ensure the co-operation of the mass media, in so far as sensationalistic reporting reinforces the motivation and ruthlessness of terrorist groups. 20/

33. Terrorists have often claimed to be soldiers instead of criminals, forced by circumstances into an unconventional mode of war but, none the less, entitled to the same privileges extended to recognized combatants. This is not a valid argument, since the Geneva Conventions on rules of war grant civilians who do not take part in hostilities immunity from deliberate attack, a prohibition often flaunted by terrorists. In addition, the Geneva Conventions prohibit taking hostages and require combatants to wear uniforms or insignia identifying them; two rules that are frequently ignored by terrorists.

34. In spite of the difficulties encountered by the attempts to establish effective co-operation mechanisms for the prevention and control of transnational terrorism, the United Nations system has had some success in creating international instruments aimed at the prevention of certain forms of this phenomenon. 21/ Thus, the International Civil Aviation Organization (ICAO) adopted the Convention on Offences and Certain Acts Committed on Board Aircraft, known as the Tokyo Convention, in 1963; 22/ the Convention for the Suppression of Unlawful Seizure of Aircraft, known as The Hague Convention, in 1970; 23/ and the Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aviation, known as the Montreal Convention, in 1971. 24/ Furthermore, the General Assembly, by resolution 3166 (XXVIII), annex, of 12 December 1973, adopted the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents; and, by resolution 34/146, annex, of 17 December 1979, the International Convention against the Taking of Hostages. The International Atomic Energy Agency concluded the Convention on the Physical Protection of Nuclear Material in 1980.

35. In addition, three conventions with a regional scope have been adopted for the purpose of combating transnational terrorism: the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, known as the Organization of American States (OAS) Convention, of 1971; the European Convention on the Suppression of Terrorism, known as the European Convention, of 1971; and the Agreement on the Application of the European Convention for the Suppression of Terrorism, known as the Dublin Agreement, of 1979.

36. The central disposition of the international conventions obligates a State that apprehends an alleged terrorist in its territory to either extradite him or her or to submit his or her case to its own authorities for prosecution, the latter course being followed when extradition fails (aut dedere aut judicare). The conventions also obligate the parties to take steps towards apprehending the accused and hold them in custody. Thus, the main objective of these provisions is to ensure that the alleged offender is prosecuted. The obligation is not so much to try the accused as to submit the case to the appropriate prosecuting authority. Consequently, if the criminal justice system of a particular country lacks independence there exists a considerable possibility of political intervention in preventing the trial, the conviction or the implementation of the punishment. Moreover, even if the criminal justice system does function independently, and without political interference, it may still be extremely difficult to obtain the evidence needed to convict somebody for a crime committed in a foreign country.

37. It is important to note that none of the conventions eliminates fully the political offence exception to extradition. Article 7 of the Hague Convention, for example, requires a State party, if it does not extradite an alleged offender, to submit his or her case to its competent authorities for the purpose of prosecution, and those authorities are to treat the case "... in the same manner as in the case of any ordinary offence of a serious nature under the law of that State". But a State party to The Hague Convention can decide not to extradite an alleged offender for any reason whatsoever, including its view that the offence was political in character.

38. Of the three regional instruments, the OAS Convention has been largely superseded by the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. In any case, although its key provisions are on extradition or punishment of alleged offenders under national legislation, the long-standing regional tradition of asylum has often undermined any real chance of extradition taking place. A more serious shortcoming is that if a State decides against a request for extradition, it is totally free to refuse, without violating the Convention, to prosecute an alleged offender.

39. The European Convention attempts to define more narrowly the applicability of the political offence exception to activities of a terrorist nature, such as hijacking, kidnapping, hostage-taking and the use of explosives. Further, it creates the obligation for the State party to the Convention to submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution in instances where it has refused to extradite the alleged offender. In attempting to exclude various common crimes, as well as terrorism, from the political offence exception to extradition, however, the Convention has met with considerable resistance among State parties, which, upon signing or ratifying it, have reserved the right to refuse to extradite for an offence that they consider political.

C. Economic crimes

40. Economic crimes were examined by the Fifth Congress, in 1975, as a subtopic of agenda item 5: "Changes in the forms and dimensions of criminality - transnational and national". The discussion of the issues raised by economic criminality led to the conclusion that more effective control over abuses by national and transnational enterprises could be achieved by the following: (a) establishment of national securities and exchange commissions and, possibly, the establishment of a similar body at the international level; (b) legislation against national and transnational abuses of economic power in

the exercise of commercial activities by national and transnational enterprises; (c) greater participation of shareholders in the affairs of major corporations or of workers in public enterprises; (d) provision of more information on economic criminality by such bodies as commissions of inquiry, consumer groups and labour unions; and (e) initiation of special studies on corruption and smuggling, in view of their extremely detrimental effect on national economies and international trade, particularly in developing countries.

41. Five years later, at the Sixth Congress, the issue of economic crimes was subsumed under agenda item 5: "Crime and the abuse of power: offences and offenders beyond the reach of the law". In this connection, the Sixth Congress adopted resolution 7, which recommends, inter alia, that effective strategies should be developed internationally, regionally and nationally to prevent, prosecute and control such abuses. The resolution also recommends that co-operative efforts between Member States to prevent, prosecute and control abuses of economic and political power that extend beyond national boundaries and territorial jurisdictions should be intensified. These efforts should include mutual legal assistance treaties or conventions establishing procedures for the gathering of evidence and the extradition of persons. 25/

42. Two sorts of offences are customarily subsumed under this category. First, the category includes harmful acts or crimes committed by one or more persons for the purpose of maximizing, maintaining or obtaining economic profit for the legally constituted multinational corporations for which they work, and with the knowledge and tacit or explicit approval of higher policy-making or decision-making officials within the established corporate structure, such as managers or directors. In this area, there is substantial work in progress on the part of the Commission on Transnational Corporations of the United Nations. Secondly, the category may also include offences committed by private persons, who represent their activities as bona fide financial or commercial operations, whereas their conscious intent is to defraud individual investors, public or private institutions, or Governments, and the operations involved are undertaken or carried out in a transnational context. Some of the activities of organized crime fit this pattern.

43. As far as multinational or transnational corporations are concerned, the size and volume of the operations of some unavoidably provide them with the economic power that, when wielded by unscrupulous corporate officials, may easily be transformed into an effective instrument of pressure against uncooperative government officials. Thus, the threat to terminate a certain operation, or to withdraw or withhold certain investments, may force public administrators to ignore serious violations of the law or of the constitutive contract between a national Government and the corporation involved.

44. In numerous cases, transnational economic criminality concentrates on income tax evasion by, inter alia, the falsification of import or export invoices. This is very often a far more serious problem for developing countries than for developed ones, where the scarcity of properly trained personnel is a major obstacle to effective detection. Moreover, the currencies of those countries are dangerously weakened by the circumvention of foreign exchange controls.

45. The majority of operations undertaken by transnational corporations or by international actors of a non-corporate nature are legal and quite often represent an asset for the receiving countries, the economies of which are substantially reinforced by the corresponding investments. This should not lead, however, to an under-evaluation of the massive damage inflicted by

criminal operators. Since the victims are often developing countries, the operations in question frequently undermine vital development programmes. Furthermore, these criminal operations are very frequently associated with corruption, thus leading to negative consequences identical to those indicated in the case of organized crime, i.e. malfunctioning and inefficiency of the State apparatus, widespread demoralization, political instability and the wholesale undermining of the basic structures of social life. 26/

46. One additional phenomenon associated with economic criminality, both national and transnational, is the emergence of what are referred to as computer crimes. 27/ It has become obvious in recent years that the rapidly increasing utilization of computer technology and world-wide computer networks as an integral part of contemporary international financial and banking operations has created conditions that greatly facilitate criminal economic operations within and between countries. Such misuses are certainly not restricted to economic offences, as was indicated above with respect to terrorist activities. Some experts believe that almost all crimes, with the exception of rape but including murder, could be committed by means of the available computer technology and its ever-widening applications. 28/

47. The abuse of computers as a modality of economic crime is undergoing a very rapid increase. Thus, one major industrial country reported 7 such offences in 1985 and 174 in 1986. Although it is difficult to imagine that such a rate of growth will continue unabated, the potential damage to orderly international economic transactions is evident and alarming, in view of the massive volume of international financial operations carried out daily through electronic fund transfers.

48. Another source of concern is the difficulty of detecting such offences. A good computer specialist can erase most traces of his or her activities. Another characteristic of computer criminality is that, thanks to the existence of world-wide satellite communications networks, such crimes can be committed in fractions of seconds, while their detection, not to mention the corresponding investigations, may take weeks, if not months, thus providing the offender with valuable lead-time.

D. Crimes against the environment

49. Serious and sometimes irreversible damage to the environment, such as various forms of massive air, water and land pollution, is being recognized as a matter of international concern when its destructive impact makes itself felt beyond the borders of the country of origin. Thus, the massive use of chemical herbicides, detergents and inorganic fertilizers, the release of large amounts of gases in the atmosphere, the careless and indiscriminate disposal of poisonous and radioactive industrial wastes, to mention only the most salient examples, can no longer continue to be considered as falling within the prerogatives and the jurisdiction of a single country. The harm they cause to the environment, and therefore to life and property, does not stop at national borders.

50. This is particularly true of a number of practices that generate a global threat, such as the damage inflicted on the ozone layer by certain gases, or the massive escape of radioactivity into the atmosphere. Consequently, environmental criminality may well be an area in which the traditional and very narrowly interpreted concepts of sovereignty and of criminal responsibility may be in urgent need of re-examination and re-adjustment to the international realities created, at least in part, by the development and uncontrolled utilization of certain technologies. 29/ Thus, the World

Commission on Environment and Development states that "the traditional forms of national sovereignty are increasingly challenged by the realities of ecological and economic interdependence. Nowhere is this more true than in shared ecosystems and in those parts of the planet that fall outside national jurisdictions". 30/

51. The Convention on the Protection of the Environment, known as the Nordic Environmental Convention, concluded between the Nordic States at Stockholm on 19 February 1972, possesses, in terms of regional co-operation, a pioneering value in that it almost completely abolishes terms such as national borders and exclusive sovereignty. "It is, in this Convention, explicitly laid down that a State considering the permissibility of environmentally harmful activities must take into account what nuisance these activities may cause any other contracting State." 31/

52. International awareness of the problem is not new, as illustrated by the convening at Stockholm, in June 1972, of the Conference on the Human Environment by the United Nations. The Conference adopted a Declaration on the Human Environment, to which a set of 26 principles were attached, as well as a Plan of Action containing 109 recommendations related to the protection of the environment and the preservation of the ecosystem. 32/ Principle 21 explicitly declares that States have, "in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction".

53. Since then, international interest in the protection of the environment has not abated, as illustrated by the adoption of several specialized international instruments and the establishment of the International Environmental Information System (INFOTERRA). Recent examples are the adoption by the Governing Council of the United Nations Environmental Programme, by decisions 14/25 and 14/27 of 17 June 1987, of the Goals and Principles of Environmental Impact Assessment, which were developed by the Working Group of Experts on Environmental Law, and the London Guidelines for the Exchange of Information on Chemicals in International Trade, respectively. In addition, Governing Council decision 14/30 of 17 June 1987 approved the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes.

54. General Assembly resolution 42/186, annex, of 11 December 1987, containing the Environmental Perspective to the Year 2000 and Beyond, represents an additional effort to develop a sound framework to guide national action and international co-operation with respect to the preservation of a balanced and healthy environment. Further, General Assembly resolution 43/212 of 20 December 1988 stresses the obligation of all States to protect the environment and to take the legal steps and technical measures to halt and prevent the international traffic in, and dumping of, toxic products and wastes. Recently, the General Assembly adopted resolution 44/116, section R, of 15 December 1989 and resolutions 44/224, 44/226, 44/229 of 22 December 1989 on, respectively, the prohibition of the dumping of radioactive wastes; international co-operation in the monitoring, assessment and anticipation of environmental threats and assistance in cases of environmental emergency; traffic in and disposal, control and transboundary movements of toxic and dangerous products and wastes; and international co-operation in the field of the environment. It should also be mentioned that, by resolution 44/228 of 22 December 1989, the Assembly decided to convene a United Nations conference on environment and development, to coincide with World Environment Day on

5 June 1992. The General Conference of the International Labour Organization, at its seventy-seventh session at Geneva in 1990, adopted a resolution linking environmental protection with employment creation.

55. None the less, many recent incidents gravely affecting numerous countries have again highlighted the potential devastating international consequences of certain common practices and procedures. In addition, such events have illustrated the insufficiencies of the existing bilateral and multilateral arrangements for redress of and retribution for inflicted damages. The dumping of industrial wastes into the oceans, the appearance of acid rain, the massive escape of radioactive gases, the leakage of chemical products into transnational waterways, the huge oil spills occurring with frightening regularity, and other such phenomena which have resulted in the progressive destruction of entire forests, the radioactive contamination of crops and dairy products in vast areas, and the nearly total annihilation of animal life in major rivers and lakes and along sea shores document the international dimensions of pollution. 33/

E. Crimes against the cultural heritage

56. From an international perspective, the category of crimes against cultural heritage consists of the procurement and acquisition of archaeological and artistic objects that have been classified by the national authorities as part of the cultural heritage of a nation, for the purpose of exporting them to other countries, in violation of existing prohibitions. This transnational traffic, which threatens to deplete the cultural heritage of many nations, particularly in the third world, has caused deep concern in numerous countries. This concern led to the adoption, by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its sixteenth session, in 1970, of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. 34/ This Convention, however, has found less than full acceptance among developed countries.* Since the most important markets for such objects are situated in these countries, their non-accession to the Convention gravely limits its impact on this illicit traffic.

57. The Fifth Congress examined offences involving works of art and other cultural property as a subtopic of agenda item 5, "Changes in the forms and dimensions of criminality - transnational and national", and concluded that: (a) there was a need for a better exchange of information concerning the protection of cultural objects at the international level; (b) such information should include particulars of national legislation designed to facilitate recovery of property that had been the object of illicit traffic and to deal effectively with those who engaged in theft or destruction of cultural property, by licensing requirements for auctioneers and dealers in antiques; (c) consideration should be given to the desirability of a code of ethics for professional dealers in art objects; and (d) new efforts should be made to obtain wider ratification, acceptance or adherence to the 1970 UNESCO Convention.

58. In an attempt to cope with the same problem, the Organization of American States approved resolution 210(V-O)/76 of 16 June 1976, containing the Convention on the Defense of the Archeological, Historical and Artistic Patrimony of

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*As of 21 June 1989, it has been ratified, accepted or acceded to by 66 States, of which only 3 are developed countries. See "Return or restitution of cultural property to the countries of origin" (A/44/485, appendix II).

the American Nations, known as the San Salvador Convention. Of particular interest in the present context is that this Convention, in article 14, specifically includes offences against the cultural patrimony in the extradition treaties in existence between States parties to the Convention.

59. Some experts believe that if the present rate of unauthorized digging of such sites continues unimpeded, the entire cultural heritage of numerous nations will have been disposed of by international traders within a few more decades. Valuable contributions to an understanding of the problem and to the search for solutions have been made by the United Nations Interregional Crime and Justice Research Institute (UNICRI), the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD; Spanish acronym) and by the Arab Security Studies and Training Centre.

60. The involvement of professionals, such as retailers and art and antique dealers, in this illegal trade has been established beyond doubt. Further, these operations cannot be easily carried out without the complicity of some officials at different levels. Moreover, many Governments are still ill-equipped to implement the necessary controls, both from a material as well as a juridical point of view.

61. In addition to the scarcity of resources, which often paralyses public officials by seriously hampering their surveillance activities both in situ and at the borders, the insufficiency of international instruments makes restitution extremely difficult and time-consuming. The non-ratification of the UNESCO Convention by some of the main importing countries underlines the difficulties in combating these offences at the international level.

62. Although it is true that the most destructive plundering of the cultural heritage of nations and the export of all movable items have been predominantly occurring in developing countries, such criminal activities are by no means restricted to the third world. Historical buildings, archaeological sites, temples, churches and even museums in developed countries have been, in recent years, the theatre of operations for highly sophisticated art thieves. The seriousness of the threat to the European cultural heritage has been reflected in the opening for signature of the European Convention on Offences relating to Cultural Property, by the Council of Europe, at Delphi, Greece, on 23 June 1985. As stated in the introduction to the explanatory report to the Convention "cultural property in museums, in churches, in private collections, on archaeological sites, has become, these last few years, the victim of unprecedented pillage, theft and destruction. An organized underground brings the loot to market, usually in a country other than the one from where it comes". 35/

II. ATTEMPTED SOLUTIONS

63. One of the major reasons for the serious difficulties encountered in the prevention and punishment of international offences appears to derive from their very nature, i.e. their transnational character. The large number of jurisdictions in the contemporary world and the diversity of existing national legislations pose particularly acute problems to the administration of justice in relation to crimes affecting, directly or indirectly, more than one sovereign State.

64. Extradition, which is, in theory at least, one of the main mechanisms for international co-operation in criminal matters, illustrates the shortcomings of current arrangements. Current extradition treaties are usually concluded

on a bilateral basis. Given the large number of sovereign States now in existence in the world, however, a bilateral approach may no longer be adequate to cope with the complexities of transnational criminality. Partly as a reflection of the fact that none of the principles of the traditional law of extradition has received sufficient universal recognition to have been declared a principle of general international law, no world-wide, general treaty of extradition has received the acceptance of the international community. Extradition laws remain essentially influenced by the concept of the sovereignty of States, and the granting of extradition is often considered more as an exception to national interest than a contribution to international solidarity. 36/

65. The territorial principle of jurisdiction, which is still the most widely applied, and even the nationality principle appear insufficient to solve jurisdictional problems that emerge in relation to the prosecution and punishment of transborder offences. The principle of limited jurisdiction over acts of non-nationals committed in a third country is already applied in cases of piracy. Global interest, however, has not yet been carried to the point of recognizing, either in customary law or in international agreements, the principle of universal jurisdiction for other international offences.

66. In recent decades, hijackers have been equated with pirates as enemies of the human race. The offence of hijacking has been called aerial piracy, albeit the purpose of the hijacking is often of a political nature, and thus does not fall within the traditional concept. The Hague Convention on the Suppression of Unlawful Seizure of Aircraft (1970), for instance, has increased the number of States competent to exercise jurisdiction over hijackers in a manner that includes the introduction of new bases for the exercise of jurisdiction.

67. Such extensions of jurisdiction are taking place in specific areas. Thus, the European Convention on Offences relating to Cultural Property, in article 13, paragraph 1, states that each Party "... Shall take the necessary measures in order to establish its competence to prosecute any offences relating to cultural property: (a) committed on its territory, including its internal and territorial waters, or in its airspace; (b) committed on board a ship or an aircraft registered in it; (c) committed outside its territory by one of its nationals; (d) committed outside its territory by a person having his/her habitual residence on its territory; (e) committed outside its territory when the cultural property against which that offence was directed belongs to the said Party or one of its nationals; (f) committed outside its territory when it was directed against cultural property originally found within its territory". Although this paragraph attempts to extend jurisdiction beyond what the territorial principle would traditionally allow, limits to this extension are set in paragraph 2 of the same article, which states that "... in the cases referred to in paragraph 1, sub-paragraphs (d) and (f), a party shall not be competent to intiate proceedings in respect of an offence relating to cultural property committed outside its territory unless the suspected person is on its territory". 37/ Unfortunately, the Convention has enjoyed very limited acceptance by the States of the region.

68. The new United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted at Vienna in December 1988, states n paragraph 1 (b) of its article 4 that each Party:

> "(b) May take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

(i) The offence is committed by one of its nationals or by a person who has his habitual residence in its territory;

(ii) The offence is committed on board a vessel concerning which that Party has been authorized to take appropriate action pursuant to article 17, provided that such jurisdiction shall be exercised only on the basis of agreements or arrangements referred to in paragraphs 4 and 9 of that article;

(iii) The offence is one of those established in accordance with article 3, paragraph 1, subparagraph (c) (iv), and is committed outside its territory with a view to the commission, within its territory, of an offence established in accordance with article 3, paragraph 1" (E/CONF.82/15).

69. As is the case with extradition, the majority of judicial assistance arrangements are of a bilateral nature. Moreover, they have not been concluded in large enough numbers to constitute a tight, world-wide net, and thus have not yet attained an adequate level of effectiveness. The formulation and adoption of multilateral agreements have been hampered by the need to take into consideration the different national legislations and legal traditions concerning such vital issues as, inter alia, the constitutional protection of the rights of the accused. In this connection, a valuable step towards solving such problems and thus establishing a satisfactory multilateral framework for judicial assistance is represented by the Commonwealth Scheme for Mutual Assistance in Criminal Matters, adopted by the Commonwealth Law Ministers at their meeting at Harare, Zimbabwe, from 28 July to 1 August 1986. The Commonwealth Scheme is based on a simple premise, namely, that Commonwealth Governments will, in certain respects, extend to other Commonwealth Governments the facilities that, within their own legal frameworks, are available to their own agencies. This instrument, however, goes beyond the common conception of judicial assistance in that it contains provisions relating to the international forfeiture of the proceeds of crime.

70. More recently, the International Conference on Drug Abuse and Illicit Trafficking, held at Vienna, Austria, from 17 to 26 June 1987, recommended that States initiate action to enter into regional or interregional agreements that would serve the purposes of formalizing mutual legal assistance in such activities as (a) taking evidence, including compelling testimony; (b) serving judicial documents; (c) executing requests for searches and seizures; (d) examining objects, sites and conveyances; (e) locating or identifying witnesses or suspects; (f) verifying in narcotics laboratories the illegal nature of substances seized; (g) exchanging information and objects; and (h) providing relevant documents and records, including bank, financial, corporate and business records. 38/

71. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances states, in paragraph 1 of article 7, that "... the Parties shall afford one another, pursuant to this article, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3, paragraph 1". Paragraph 2 further states that "... mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes: (a) Taking evidence or statements from persons; (b) Effecting service of judicial documents; (c) Executing searches and

seizures; (d) Examining objects and sites; (e) Providing information and evidentiary items; (f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records; (g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes" (E/CONF.82/15).

72. In the matter of forfeiture of the proceeds of crime, the International Conference pointed out that the volume of the property and money transactions related to drug trafficking had increased so greatly as to affect some national economies in their entirety, and that the increased use by traffickers and their associates of complex corporate structures and intricate business transactions involving banks, trust companies, firms dealing in real estate and other financial institutions had added to the difficulty of seizing assets obtained as a result of trafficking in drugs. 39/ Consequently, the International Conference recommended that national legislation and regulations be reviewed for the purpose of proposing any necessary modifications that would facilitate and ensure the seizure, freezing and forfeiture of the proceeds from drug trafficking. In the same vein, it suggested that, if some of these assets were located in another State, the latter should assist the other State in seizing those assets. 40/ In this connection, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances contains, under its article 5 (Confiscation), a series of dispositions that will be of great value for the control of this aspect of international criminality and which could serve as a model for future initiatives (E/CONF.82/15).

73. The transfer of criminal proceedings is a promising development in international co-operation. Thus, the International Conference on Drug Abuse and Illicit Trafficking suggested that States whose systems of law and rules of evidence and procedure are much alike may wish to consider entering into agreements for the transfer of criminal proceedings as appropriate. Further, the International Expert Meeting on United Nations and Law Enforcement, held at Baden near Vienna, Austria, from 16 to 19 November 1987, suggested the transfer of proceedings as a contribution "to the solution of the problems of concurrent jurisdiction and plurality of proceedings", which "might lead to the reciprocal formal acknowledgement of the validity of foreign criminal judgements".

74. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, in article 8, states that the Parties "... shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interests of a proper administration of justice" (E/CONF.82/15).

75. Another obstacle to effective international co-operation is related to the complexity of many domestic administrative arrangements. Thus, in most countries, a number of agencies within the Government, in addition to the police forces and prosecuting authorities, may be more or less directly involved in some aspects of the detection, prevention and control of certain types of crime. This may be the consequence of the role of those agencies in the supervision of banking and financial operations, foreign trade and customs, quality control and tax matters. This functional fragmentation, which may be sound and justifiable with respect to domestic matters, almost unavoidably results in a diminished capacity to initiate requests for international co-operation, as well as in slow responsiveness vis-à-vis incoming requests.

76. In a number of cases, some of the harmful acts mentioned in the previous paragraphs, such as damage to the environment or the removal and sale of

archaeological objects, may have been classified as crimes in some national legislations but not in others. This absence of universal or nearly universal criteria for criminalization is a grave impediment to the establishment of effective international co-operation agreements. This is most clearly the case with respect to the likelihood of extradition, in so far as extradition is, in general, subject to the principle of double criminality, i.e. that the act for the prosecution of which extradition is requested should be a crime in the legislations of both the requesting and the requested country. If that condition is not fulfilled, extradition cannot be granted.

77. A development that has favoured the commission of transnational economic and commercial crimes has been the enactment by a number of countries of banking legislation that establishes, for all practical purposes, a duality of banking systems, consisting, grosso modo, of an internal system that contains the normal safeguards and controls required for the sound and responsible operation of banking institutions, and an external system of a much more accommodating nature, aimed at attracting foreign capital. Unfortunately, the lax requirements for bank incorporation and the loose supervision exerted by some Governments with respect to the external system have often attracted customers interested in laundering the proceeds of crime.

78. Off-shore banking legislation often possesses an additional characteristic that constitutes a serious and sometimes even insurmountable obstacle to international co-operation. This is the manner in which this legislation seeks to be a protective screen for all types of banking activity, instead of being a mechanism that tries to ensure that matters of a genuine confidential nature are not disclosed to competitors, the public or law enforcement agencies (except under specific conditions).

79. Further, it is obvious that widespread corruption of public officials seriously limits the possibility of implementing even the best international co-operative arangements. There have been cases in which some persons in key positions within the public administration structures of a country or within political parties have often succeeded in hindering or sabotaging efforts to comply with requests for assistance in criminal matters.

80. Corruption is a form of criminality that often accompanies the operations of international crime. Action against corruption may take either the form of specific recommendations for changes in the relevant legislation of those countries that deem it necessary, or the elaboration of guidelines for the control of such undesirable conduct, including the viability of bringing corruption under an expanded conception of jurisdiction.

III. WAYS AND MEANS OF STRENGTHENING INTERNATIONAL CO-OPERATION FOR THE PREVENTION OF TRANSBOUNDARY CRIMINALITY

81. The Congress may wish to consider the following suggestions and decide which ones should be elaborated for possible submission to the appropriate international forums.

82. It appears that a modernized and more flexible conception of jurisdiction is a prerequisite for the effective prosecution of transnational offenders. In addition, this new conception needs to be combined with simpler and more reliable methods of extradition. In this connection, several possible lines of action are possible, inter alia, international action on extradition, international action on jurisdiction, international law enforcement co-operation, mutual judicial assistance and technical co-operation.

A. Jurisdiction

83. It seems that any convention or conventions designed to deal with the transnational dimensions of criminality would, inevitably, have to expand the jurisdictional capabilities of affected States. Such a convention could contain a list of acts to be considered crimes in all States becoming party to it, in which case a considerable degree of international uniformity would be achieved. Consideration might be given to linking extradition obligations to any expanded jurisdictional capabilities, so that States should either prosecute offenders in its custody or extradite them to a requesting State (aut dedere aut judicare).

84. The concept of universal jurisdiction may possibly be applied to at least the most serious forms of transnational criminality, i.e. the same jurisdiction principle traditionally applied to piracy, thus providing universal jurisdiction by all States against the perpetrators of such offences. 41/

85. Recent developments have moved in the direction of expanded jurisdiction. Thus, useful precedents can be found in existing conventions designed to cover specific types of acts as, for example, on aerial hijacking in The Hague Convention; on the sabotage of aircraft in the Montreal Convention; and on offences against diplomats in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The Eighth Congress may wish to examine the desirability of undertaking an attempt to formulate general principles to be extended to other transnational crimes on the basis of these examples and of suggesting modalities for granting jurisdiction over such crimes to an international criminal court or to regional courts.

B. Mutual judicial assistance

86. Mutual assistance treaties are, in the opinion of some experts, the most significant development in international law in recent years. They are formulated to overcome all the traditional difficulties encountered in obtaining evidence in a foreign country, and limited only by the provisions of the requested country's national law. Such treaties characteristically commit the full authority of the requested country in any future case in securing, by compulsory process or otherwise, all the necessary evidence required for the investigation and trial of any offence falling within the spectrum of a broad range of commonly recognized criminal acts. These treaties have been extremely useful in overcoming some previously insoluble problems, such as those created by the elaborate secrecy measures surrounding banking transactions in many countries.

87. Formal investigative assistance becomes indispensable for the acquisition of evidence needed to continue the investigation or to prepare the case for trial. Such formal investigative assistance is assured either through executive agreements or mutual assistance treaties. Both are recent international innovations.

88. In the future, more comprehensive mutual assistance instruments, either of a bilateral or multilateral nature, could include additional aspects, such as recognition and assistance in the enforcement of penal judgements, transfer of sentenced persons and transfer of criminal proceedings, as well as dispositions for the freezing, seizure and forfeiture of criminal proceeds. The latter is already included in some international instruments. There exists also the possibility of establishing more solid foundations for international judicial assistance. Traditionally, co-operation between investigative

agencies of various countries has been carried out on an informal basis. The corresponding requests for investigative co-operation may seek the performance of a variety of investigative functions, as long as they do not involve compulsory legal process. The limitations of this approach are obvious. In spite of such limitations, however, informal co-operation should continue to be used, encouraged and facilitated.

89. Since it often appears that the efficiency of measures for combating transnational criminality adopted at the national level is closely dependent on the co-operation of the criminal authorities of other States, a possible solution might be the conclusion of an international convention on mutual assistance in criminal matters, which might include enforcement of sentences rendered in other countries. In this respect, the European Convention on Mutual Assistance in Criminal Matters is an interesting attempt to propose solutions in matters relating to international criminality. In particular, the Convention accepts the basic principle that mutual assistance is to be independent of extradition in that it is to be granted even in cases where extradition is refused.

90. In view of these developments, the Congress may wish to consider the opportunity of formulating a draft international convention on mutual judicial assistance, and instruct the Secretariat accordingly.

C. Extradition

91. Multilateral extradition conventions have been concluded on subregional, regional or other limited bases, as illustrated by the Benelux Extradition Convention, the European Convention on Extradition, the Inter-American Convention on Extradition, the Arab League Extradition Agreement and the Scheme Relating to the Rendition of Fugitive Offenders within the Commonwealth. These arrangements are sometimes based on geographical, sometimes on political or cultural affinities or, as is the case with the Scheme, on historical links between a group of diverse countries. Their successful conclusion indicates that perhaps the time has come to initiate the elaboration of a universal instrument for extradition.

92. Foremost among the difficulties besetting extradition arrangements is the political offence exception clause, a problem that emerges particularly in connection with the surrender of alleged or convicted terrorists. Some modest progress has been achieved in recent decades, as illustrated by The Hague Convention for the Suppression of Unlawful Seizure of Aircraft. 23/ This Convention not only declares the offence of hijacking to be extraditable (article 8), but also commits its States parties to treating hijacking as an ordinary offence of a serious nature, regardless of the motivation of the hijacker. Article 8 of the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 24/ is almost identical to article 8 of The Hague Convention, and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons contains a similar provision.

D. Law enforcement co-operation

93. Many experts are convinced of the indispensability of some effective form of international policing, particularly in view of the total disregard transnational offenders manifest vis-à-vis borders and territories, while simultaneously taking full advantage of the limitations that such borders and territories impose on national police operations.

94. The General Assembly of Interpol at its fifty-fourth session, held in Washington, D.C., from 1 to 8 October 1985, in reaction to the resolution on criminal acts of a terrorist character approved by the Seventh Congress, adopted resolution AGN/54/1, by which the General Secretariat of Interpol was requested to prepare an instruction manual outlining the practical possibilities that existed for co-operation in dealing with terrorist cases. A year later, the General Assembly of Interpol, at its fifty-fifth session held at Belgrade, Yugoslavia, from 6 to 13 October 1986, adopted by resolution AGN/55/3, the "Guide for combating international terrorism", containing useful information on the use of the Interpol network in the struggle against transnational terrorism.

E. Differentiated strategy

95. Although there has been a trend in recent decades in some sectors of crime prevention and criminal justice towards decriminalization and depenalization, it appears that, at least in certain areas, the opposite course may be required, as is the case with the illicit traffic in cultural property.

96. The Eighth Congress may wish to examine the possibility of adopting recommendations for stricter criminalization of transnational offences at the national level for Governments to draw upon if interested. This may be necessary in view of the leniency of much legislation, a characteristic that makes it lose some of its dissuasive power. For instance, if fines for certain offences are low in comparison with the profits made, the prohibition will continue to be ignored. This appears to be the case for numerous economic offences, the pillaging of cultural patrimonies and environmental offences. In some such cases, imprisonment may have to be added to the fines if prevention is to be achieved.

97. The Eighth Congress may consider it appropriate to examine ways and means of establishing clear international responsibility for damage to the environment, including financial responsibility, for rapidly informing neighbours of possible danger and for ceasing and desisting from undertakings that are harmful to the environment and whose impact is likely to affect other countries. In this regard, it may be opportune to elaborate some of the provisions contained in the Guiding Principles of Crime Prevention and Criminal Justice approved by the Seventh Congress.

F. Technical co-operation

98. One of the main causes of failure in preventing and controlling transnational criminality is the frequent inadequacy of personnel and equipment in developing countries. Since most of these countries suffer from acute shortage of resources, they cannot be expected to remove those deficiencies by themselves. Substantial improvement of technical co-operation is therefore an indispensable condition of international concerted action against transborder criminality. The Congress may wish to explore ways and means of motivating developed countries to increase their current levels of technical co-operation in this vital area, either bilaterally or through the United Nations or other intergovernmental organizations.

99. The capacity of the police, other law enforcement agencies, the judicial organs and other parts of the criminal justice system to deal with transnational offences, such as drug trafficking and related forms of organized and economic crime, including corruption, must be improved. For this purpose, emphasis should be placed on the training of personnel and the deployment of computer technology. Thus, training, especially training trainers so as to

achieve a multiplier effect, should be a central element of technical co-operation programmes. Equally important should be assisting developing countries to attain an acceptable level of computerization of their crime control programmes, thus permitting them to profit from and contribute to the United Nations Crime and Justice Information Network and other such international information processing systems, including Interpol.

100. Technical co-operation could also take the form of assistance in the drafting of codes and other national legal instruments, to be provided to the requesting countries either bilaterally or through the United Nations. This activity should be guided by the avowed intent of creating the modicum of harmony and compatibility of legislation throughout the world that would most likely facilitate multilateral co-operation in the future. The regional and interregional crime prevention institutes could play a significant role in this endeavour.

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