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CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

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I. INTRODUCTION

1. At its forty-fifth session, the General Assembly considered the report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana, Cuba, from 27 August to 7 September 1990. ^{1/} In its resolution 45/121, deeply concerned about the steady rise of crime in many parts of the world, particularly its dangerous new forms and transnational dimensions, the Assembly recognized the importance to all countries of more effective crime prevention and criminal justice in furthering socio-economic development, political stability and a propitious climate for national growth and world peace. In the same resolution, the Assembly welcomed the instruments and resolutions adopted by the Eighth Congress and invited Governments to be guided by them in the formulation of appropriate legislation and policy directives and to make efforts to implement the principles contained in the relevant instruments and resolutions approved by both the recent and previous congresses, in accordance with their economic, social, legal, cultural and political circumstances. The Secretary-General was requested, inter alia, to use his best endeavours to translate into action the resolutions recommended by the Eighth Congress for adoption by the General Assembly, and to provide adequate follow-up of the other resolutions adopted by the Congress, and to do so in accordance with the priorities indicated by the Congress.

2. The Assembly, at its forty-fifth session, also adopted 13 draft resolutions recommended to it by the Eighth Congress, as well as resolutions 45/122, 45/123 and 45/166 relating to criminal justice education, international cooperation in combating organized crime and human rights in the administration of justice, respectively.

3. Since the forty-fifth session of the Assembly, the Secretary-General has taken certain initial steps to give effect to resolution 45/121. The present report outlines these measures.

II. PROGRESS ACHIEVED IN THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 45/121

A. First regular session of 1991 of ECOSOC

4. In response to Economic and Social Council resolution 1990/27, the Secretary-General submitted to the Council, at its first regular session of 1991, a progress report with special attention to the decisions of the General Assembly. It highlighted the main issues raised during the debate on the report of the Eighth Congress, action taken by the General Assembly and the initial response thereto by the Secretariat.

5. Having considered the report, the Council, in its resolution 1991/15, requested the Secretary-General, inter alia, to pay particular attention to the operational aspects of the resolutions of the Eighth Congress in order to

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assist interested countries in promoting human resources development as well as reinforcing their national machinery. It stressed the importance of Assembly resolution 45/108 and requested the Secretary-General to assist in the proper organization of the forthcoming intergovernmental working group and the ministerial summit meeting on the creation of an effective international crime and justice programme.

6. The Council further requested the Secretary-General to use his best endeavours to provide resources, within the existing level of the regular budget, for public information activities related to the preparation and servicing of those two meetings. The Assembly was requested to give priority attention to the conclusions and recommendations of the ministerial summit meeting, with a view to taking appropriate action thereon, leading to the creation of an effective international crime and justice programme. The Council also decided to give priority attention at its regular session of 1992 to crime prevention and criminal justice.

B. Intergovernmental working group and ministerial meeting

7. In its resolution 45/108, the General Assembly decided to establish an intergovernmental working group, which would present proposals for an effective crime prevention and criminal justice programme and suggest how it could most appropriately be implemented. In accordance with that resolution, the President of the Assembly appointed 29 Member States, on the basis of the principle of equitable geographical distribution, to constitute the membership of the working group (A/45/973 and Add.1). The working group will meet in Vienna, from 5 to 9 August 1991.

8. In the same resolution, the Assembly invited Member States, in consultation with the Secretary-General and the Chairman of the Committee on Crime Prevention and Control, to convene an early ministerial meeting to consider the report of the intergovernmental working group in order to decide on the future crime prevention and criminal justice programme.

9. The Secretary-General has initiated the organizational and substantive preparations for this important event, to be held in Paris, from 21 to 23 November 1991, at the generous invitation of the Government of France. The recommendations of the ministerial meeting will be brought to the attention of the Assembly, at its forty-sixth session, for appropriate action.

C. Preparations for the twelfth session of the Committee on Crime Prevention and Control

10. In its decision 1990/216, the Economic and Social Council approved the provisional agenda and documentation for the twelfth session of the Committee, to take place from 10 to 19 February 1992. It will be preceded on 6 and 7 February by a pre-sessional working group on the implementation of international standards in crime prevention and criminal justice. The

Secretariat is now engaged in preparing for that session. The implications of the resolutions and recommendations of the Eighth Congress for programmes of the United Nations system have been analysed and priority accorded to: (a) specific practical measures to combat international crime and promote the effective implementation of the instruments, standards and norms adopted by the international community; and (b) provision of technical cooperation to Member States.

11. The General Assembly, in its resolution 45/123, requested the Committee on Crime Prevention and Control to consider ways of strengthening international cooperation in combating organized crime and to submit its views, through the Economic and Social Council, to the Assembly at its forty-seventh session. Accordingly, a report to the Committee is being prepared on ways of strengthening international cooperation in combating organized crime and other forms of transnational criminality. A note by the Secretary-General on proposals for a new instrument on international cooperation in criminal matters is also being prepared for the Committee's consideration.

12. Particular importance has been accorded to the implementation of United Nations standards and norms in crime prevention and criminal justice. Reports will be submitted to the Committee on the implementation of the Milan Plan of Action 2/ and the conclusions and recommendations of the Seventh Congress; the Standard Minimum Rules for the Treatment of Prisoners; 3/ the Basic Principles on the Independence of the Judiciary; 4/ the Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex); the Rules for Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex); the Guidelines for the Prevention of Juvenile Delinquency (General Assembly resolution 45/112); as well as the relevant conclusions and recommendations of the Eighth Congress.

13. The Eighth Congress, in its resolution 10, 5/ stressed the value of the United Nations Surveys of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies in stimulating Member States to develop their criminal justice information systems and in providing them with an overview of the interrelationship between various parts of criminal justice systems. It requested the Secretary-General to convene, subject to the availability of extrabudgetary resources, an ad hoc group of experts to advise on the design, development, implementation and analysis of future United Nations global crime and criminal justice statistics surveys. Accordingly, an Ad Hoc Expert Group Meeting on the United Nations Surveys of Crime Trends was organized in Rome, in cooperation with the United Nations Interregional Crime and Justice Research Institute, from 3 to 6 June 1991. The Meeting reviewed the design of the Fourth Survey questionnaire and made valuable recommendations with respect to future surveys, for the consideration of the Committee.

D. Strengthening institutional capacity

14. At the forty-fifth session of the General Assembly, temporary resources were approved to fund, in 1991, the following posts in the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs: one P-5, one P-4, three P-3 and two general service posts. However, not all the requests of the Eighth Congress could be implemented with the limited resources available from the regular budget. In many cases, only a beginning could be made and further action will depend on the availability of means to do so. This is linked to the viability of the programme as a whole, which as yet lacks the scope and leverage to meet existing and emerging needs. Accordingly, the Economic and Social Council, in its resolution 1991/15, called for ways of redressing that imbalance, recommending, *inter alia*, that the General Assembly in the light of the ongoing programme review, consider requesting the Secretary-General to enter into a commitment for the upgrading of the status of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as called for in numerous Assembly and Council resolutions, in a way commensurate with its increased responsibilities and requisite professional expertise.

15. The practical emphasis in most of the resolutions adopted by the Congress and the Assembly requires strengthening the operational aspects of the programme, with the involvement and financial support, including extrabudgetary resources, of the United Nations Development Programme, the Department for Technical Cooperation for Development and others.

16. In 1990, the following countries generously contributed to the United Nations Trust Fund for Social Defence: China \$US 10,000, France \$54,054, Germany \$3,022, Italy \$2,027,664, Japan \$96,964, Nigeria \$10,000, Switzerland \$27,119 and Yugoslavia \$4,000. Most of these earmarked funds were used for activities of the United Nations Interregional Crime and Justice Research Institute (UNICRI), in Rome. Some Governments made contributions in kind: Germany, Italy and Japan provided the services of one junior professional officer each, and the Soviet Union an expert on a non-reimbursable loan basis during nine months of 1990.

17. In the "Recommendations on international cooperation for crime prevention and criminal justice in the context of development", adopted by the General Assembly in the annex to its resolution 45/107, Governments and United Nations funding agencies were invited to contribute to the United Nations Trust Fund for Social Defence in order to enable the United Nations to implement programmes of technical and scientific cooperation. A Pledging Day was also included in the agenda of the Eighth Congress and the Secretary-General of the Eighth Congress made a special appeal to Governments to consider contributing to the Fund on that occasion, but the results were disappointing. It is hoped that at the annual United Nations Pledging Conference for Development Activities in November 1991 further financial commitments will be made to permit intensified assistance to countries in need.

18. Over the last years, the United Nations Office at Vienna formulated a number of technical cooperation projects, which require funding for possible implementation in interested countries. A special double issue of the Crime Prevention and Criminal Justice Newsletter was devoted to technical cooperation activities undertaken or planned, for which voluntary contributions are required. In May 1991, the Director-General of the United Nations Office at Vienna appealed to Governments to help finance projects deemed of special interest, strengthening the operational aspects of the crime prevention and criminal justice programme and rendering assistance to interested Governments.

19. For too long the interfaces between dysfunctional development and criminality have not been properly recognized and, consequently, appropriate preventive policies not instituted. This is still often the case both nationally and internationally but, increasingly, their complex relationship is being acknowledged, as is the need for effective preventive strategies, to be included as a critical element of comprehensive development planning. The work of the United Nations has highlighted this aspect, and the United Nations Congresses and expert meetings have drawn global attention to them, calling for remedial steps. Some particularly noxious activities inhibiting development, such as corruption, have been the focus of initiatives taken together with the Department of Technical Cooperation for Development and joint follow-up is planned. The United Nations Development Programme (UNDP) is providing crucial support for some of the regional institutes' activities. UNDP, in its last Human Development Report, 6/ has also developed a "profile of human distress" and "weakening social fabric" lists of 58 countries, which recognizes that crime rates and human freedoms are important indicators of development.

20. It is not merely a matter of the amount but also the kind of technical assistance. The projects formulated for possible financing - even when submitted - have often followed a piecemeal approach which does not do justice to the complexities and interrelationships involved. A cost-benefit perspective requires a more integrated approach, with crime prevention and criminal justice not treated as isolated tasks or a recurrent overhead but, rather as pressing, wide-ranging issues linked to broader development problems and priorities. Inclusion of relevant projects or project elements in country programmes would permit a significant expansion of United Nations development assistance and provide a more propitious context for sustained development. Regionally, crime prevention and criminal justice - so closely linked to drug abuse and illicit drug trafficking control - deserve increased support even under the prevailing regional programme constraints and competing priorities.

III. INITIAL PHASE OF IMPLEMENTATION OF THE CONCLUSIONS OF THE EIGHTH CONGRESS

21. The Eighth Congress provided major impetus for the United Nations effort in crime prevention and criminal justice, outlining new directions for concrete action, with significant programme implications. The Congress recommendations, in conjunction with programme 29 of the medium-term plan for

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the period 1992-1997 and the proposed programme budget for 1992-1993 (under section 2), have established basic priorities for the United Nations crime prevention and criminal justice programme in the coming years, to be further defined by the Intergovernmental Working Group and the Ministerial Meeting.

A. Transnational criminality

22. The Eighth Congress stressed the need to strengthen international cooperation and promote concerted action against transnational crime and to assist Member States in improving the effectiveness of their criminal justice systems. Accordingly, special attention has been given to the development of effective methods for countering transnational forms of criminality, such as organized crime, especially drug trafficking, corruption and other economic crimes, terrorism, environmental offences, crimes against the cultural patrimony and computer crimes. The Secretariat is elaborating a draft international code of conduct for public officials and guiding principles for the prevention of crimes against the environment. It is also seeking to promote compliance by Member States with international instruments dealing with transnational crime, such as terrorism and drug trafficking, develop new model bilateral and multilateral agreements and assist countries to harmonize national legislation.

23. The United Nations Ad Hoc Expert Group Meeting on Strategies to Deal with Transnational Crime was convened at Smolenice Castle, Bratislava, Czech and Slovak Federal Republic, from 27 to 31 May 1991. It was attended by experts representing major regions of the world. New forms of concerted action against different forms of transnational criminality were proposed for consideration by the Intergovernmental Meeting and the Committee on Crime Prevention and Control at its twelfth session.

24. The profound political and economic changes that have recently occurred and are continuing to take place in Central and Eastern Europe and the Soviet Union have led, inter alia, to "emerging market economies", i.e. former centrally planned economies which are moving, at varying rates, towards mixed or market-oriented systems. Due to the unprecedented nature of these transformations, little is known of the legal framework and enforcement procedures best suited to preventing undesirable economic activities and the damage caused by them. The United Nations Interregional Crime and Justice Research Institute and the Polish research community, including the Institute for the Administration of Justice of the Ministry of Justice of Poland and the Institute of Social Prevention, Resocialization and Social Problems of the University of Warsaw, organized a seminar on that subject, at Popowo, Poland, from 22 to 26 April 1991. Its main objective was to transfer knowledge on policy and research experiences on economic crime and its control by means of criminal sanctions to policy makers, legislation drafters, the research community and criminal justice practitioners in the emerging market economies. The meeting also served to identify areas of interest and need of the participating countries in the follow-up to its deliberations through national seminars and research projects.

25. The establishment of databases and the provision of information to Member States have been initiated by the Secretariat in the areas highlighted in the Congress recommendations, inter alia, on extradition; mutual assistance and transfer of proceedings in criminal matters; transfer of supervision of offenders conditionally sentenced or conditionally released; money laundering; tracing and forfeiture of the proceeds of crime; monitoring of large-scale cash transactions; sentences imposed for drug trafficking; and trafficking in persons and arms.

26. Following up on decisions made by the General Assembly and the Eighth Congress, the Secretariat, in cooperation with the Ministry of Internal Affairs of the Soviet Union and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), is preparing an international seminar on organized crime, to be held in Moscow in October 1991 with the participation of experts from some 20 countries.

27. In accordance with the request of the Congress, methods of enhancing international cooperation in criminal matters are being pursued, for example, through the development of a model agreement for the transfer of the enforcement of penal sanctions. A committee of experts is being convened to undertake this task at the International Institute of Higher Studies in Criminal Sciences, in Siracusa, Italy, in December 1991, in cooperation with the United Nations.

28. An international workshop on "Principles and procedures for a new transnational criminal law", held at the Max Planck Institute for Foreign and International Criminal Law, Freiburg-im-Breisgau, Germany, from 21 to 24 May 1991, in cooperation with the International Society for the Reform of Criminal Law, considered new modalities of international cooperation designed to combat transnational crime through bilateral arrangements and multilateral conventions. It also examined the possibility of establishing a supra-national jurisdiction for specific crimes and new mechanisms, institutions and enforcement procedures in full observance of human rights.

B. Crime prevention planning and criminal justice management

29. Activities in this field aim at promoting integrated and effective criminal justice management and crime prevention planning with a view to enhancing crime control by: (a) providing guidelines for the formulation of national policies and programmes in those areas; (b) increasing awareness of Governments of crime trends and areas of prime concern; (c) assisting in upgrading national crime data collection capabilities and criminal justice analyses for rational decision-making.

30. In accordance with General Assembly resolution 45/107 on international cooperation for crime prevention and criminal justice in the context of development and resolution 1 on prevention of urban crime 5/ and resolution 14 on social aspects of crime prevention and criminal justice in the context of development, 5/ adopted by the Eighth Congress, work is in progress on

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databases on preventive measures related to such types of criminality as burglary, robbery and street crime; public policies designed to combat crime; education, training and public awareness in crime prevention; and criminal justice education. An in-depth assessment of available information and evaluation of the effectiveness of crime prevention measures in various cultural, social, economic and political contexts should help Governments to incorporate crime prevention policies in national development planning and to improve the ways by which criminal victimization can be avoided. In response to the Eighth Congress resolution 1 on prevention of urban crime, support has been extended to the organizers of the Second International Conference on Safety, Drugs and the Prevention of Urban Crime, to be convened at Paris from 18 to 20 November 1991.

31. Special attention is being given to the prevention of juvenile delinquency, including the development of comprehensive countermeasures for juveniles in situations of social risk and of integrated inter-sectoral strategies. Action-oriented research on youth crime continues as a basis for the development of measures to assure the protection of juvenile offenders deprived of their liberty and for dealing with serious young offenders. The application of United Nations standards to improve the administration of juvenile justice is being furthered through a consolidated volume including also commentaries.

32. In conformity with the requests of the Eighth Congress, the question of the treatment of special categories of offenders, including long-term drug addicted and acquired immunodeficiency syndrome (AIDS)- or human immunodeficiency virus (HIV)-infected prisoners, has been actively pursued. The elaboration of guidelines for the institutional and clinical management of HIV-infected prisoners and those with AIDS is proceeding in cooperation with WHO.

33. In paragraph 14 of the annex to its resolution 45/107, the General Assembly recommended, inter alia, that "the criminal justice system should be developed on the basis of the progressive rationalization and humanization of criminal laws and procedures, sentencing policies and dispositional alternatives, within the overall framework of social justice and societal aspirations". Accordingly, emphasis is being placed on the performance of the criminal justice system as a key agent of crime prevention and control. The Secretariat is assisting Governments to promote coordination between their various criminal justice sub-systems and other agencies in order to develop more coherent national systems, a database for decision-making and appropriate evaluation procedures.

34. The Eighth Congress called for more rational, effective and accountable management of criminal justice systems through the application of technological advances. The Secretariat, in cooperation with the regional and interregional institutes, is furthering the use of computerization in criminal justice and a manual has been prepared in collaboration with the Statistical Office. It is also disseminating relevant United Nations guidelines through publications, reports and newsletters and regional and interregional meetings, seminars and workshops.

C. Application of United Nations standards and norms

35. In accordance with the recommendations of the Eighth Congress, emphasis has been placed on the application of the United Nations instruments and guidelines. 7/ A special effort is being made to develop and monitor cooperative arrangements in criminal justice matters, in accordance with United Nations model treaties on extradition; mutual assistance in criminal matters; transfer of criminal proceedings; transfer of foreign prisoners; transfer of supervision of offenders conditionally sentenced or conditionally released; and prevention of crimes against cultural heritage.

36. An ad hoc group of experts (to be held at Vienna from 14 to 16 October 1991), which was organized by the Home Office of the United Kingdom in cooperation with the Secretariat, will evaluate the implementation of United Nations norms and guidelines in crime prevention and criminal justice and prepare proposals for the Committee on Crime Prevention and Control. Subject to the availability of extrabudgetary resources, two more expert group meetings are planned on (a) model legislation to foster the use of the United Nations model treaties and (b) ways and means to promote adherence of Member States to United Nations standards and norms in crime prevention and criminal justice.

37. New guidelines in priority areas identified by the Eighth Congress will also be developed as part of the standard-setting process designed to promote the observance of human rights in the administration of justice, including principles for pre-trial detention; assessment for release of life sentence prisoners; protection of the human rights of victims of crime and abuse of power; prison education and transfer of the enforcement of penal sanctions.

38. Mechanisms and operational procedures are also being elaborated for monitoring international and national developments, with a view to curtailing serious victimization. A guide on the prevention of victimization and the protection of victims will be prepared and a database established on comprehensive measures for education on the prevention of victimization, the protection of victims and assistance and compensation to be provided to them.

D. Technical cooperation

39. In its resolution 45/121, the General Assembly emphasized, as did the Congress, the need to strengthen the operational aspects of the United Nations programme of work in crime prevention and criminal justice, with a view to assisting interested countries in developing self-reliant and adequate law enforcement and judicial structures. The Department of Technical Cooperation for Development, the United Nations Development Programme and other organizations were urged to give full support to projects of technical assistance in that field.

40. Requests for advisory services continued to grow steadily, as evidenced by the number of requests received and number of advisory missions

undertaken. Between December 1990 and June 1991, the Interregional Adviser visited Botswana, Panama, Costa Rica, Colombia, Brazil, Uganda and Rwanda. The requests covered the establishment of national councils for crime prevention and criminal justice in the context of development; training of criminal justice personnel; juvenile delinquency prevention; alternatives to imprisonment; urban criminality; improvement of the capacity of law enforcement agencies and the judiciary to fight various forms of organized criminality. Assistance in the development of criminal justice statistics and legal informatics was also part of various requests, and in many instances specific project proposals were formulated for extrabudgetary funding.

41. The implementation of United Nations standards and norms has been the object of training seminars in a number of missions taken by the Interregional Adviser. Public lectures were also given to crime prevention and criminal justice agencies and to universities. Many requests were on legal reform to improve social equity, especially in the context of social and economic adjustment processes.

42. Contacts were maintained with the United Nations institutes for crime prevention and criminal justice through visits and consultations on various aspects of their work programme. Advice was provided to the Economic and Social Commission for Western Asia during a field mission and a proposal for juvenile delinquency prevention was prepared jointly with the Economic Commission for Latin America. Missions were undertaken by the Interregional Adviser to the United States, Italy, Japan and Spain to seek funding support for projects in developing countries. Visits were also made to the World Bank and the United Nations Development Programme to establish closer linkages and explore possibilities of support to help to improve public administration, including crime and corruption prevention, and increase the fairness of criminal justice.

43. The Crime Prevention and Criminal Justice Branch collaborated with the Economic Community of West African States on a draft convention on mutual assistance in criminal matters. The convention is being developed on the basis of the Model Treaty, adopted by the General Assembly in its resolution 45/117, on the recommendation of the Eighth Congress.

44. The Eighth Congress invited the United Nations institutes for crime prevention and criminal justice to be actively involved in the implementation of recommendations and decisions of the Congress. Technical cooperation activities have been included both in the programmes of the regional institutes and the United Nations Interregional Crime and Justice Research Institute. They have been limited, however, by the lack of funds.

45. Consultations were held on a possible agreement between the Government of Canada and the United Nations for the establishment of a new international centre for the reform of criminal law and criminal justice policy in Vancouver, as an institute affiliated with the United Nations, with a view to furthering the United Nations aims, policies and activities in this area. The Economic and Social Council, in its resolution 1991/15, welcomed that