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

REPORT OF THE ASIA AND PACIFIC REGIONAL PREPARATORY MEETING
FOR THE EIGHTH UNITED NATIONS CONGRESS ON THE
PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

Bangkok, 10-14 April 1989

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RECOMMENDATIONS

The Asia and Pacific Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, after extensive discussion of the various substantive issues related to the five topics of the provisional agenda of the Eighth Congress, as outlined in the discussion guide (A/CONF.144/PM.1) and in the reports of the five inter-regional meetings of experts held at Vienna in 1988 (A/CONF.144/IPM.1-5), unanimously adopted the resolution presented below, and recommended its submission, through the Committee on Crime Prevention and Control, to the Eighth Congress for further consideration and appropriate action.

Resolution

United Nations crime prevention and criminal justice programme

The Asia and Pacific Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the obligations of Member States under the Charter of the United Nations to achieve international co-operation in solving international problems of an economic, social, cultural and humanitarian character, and in encouraging respect for human rights and fundamental freedoms,

Bearing in mind also the responsibility assumed by the United Nations in the field of crime prevention and criminal justice under Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Recognizing the objectives of the United Nations in the field of crime prevention and criminal justice, inter alia, the reduction of criminality, encouragement of more efficient and humane criminal justice systems, observance of human rights and promotion of the highest standards of fairness, and its pivotal role in promoting regional and international collaboration for more effective crime prevention and criminal justice policies and strategies,

Concerned with the growth of criminality of different forms and dimensions in many parts of the world, the human, material and social costs of which pose a heavy burden on the economy, health and development,

Aware that crime problems have national, regional and international implications and require adequate policy and action responses at all levels, taking into account the cultural, political, social and economic circumstances prevailing in each country,

Recalling Economic and Social Council resolution 1987/49 of 28 May 1987 on the preparations for the Eighth Congress,

Recalling also Economic and Social Council resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987 and 1988/44 of 27 May 1988 on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice, as well as General Assembly resolutions 42/59 of 30 November 1987 and 43/99 of 8 December 1988 on crime prevention and criminal justice,

Noting with concern that the resources available for the implementation of the United Nations programme in crime prevention and criminal justice have decreased, while the commitments and the work-load of the Secretariat in this field have increased,

Acknowledging that the serious constraints on the human and financial resources available to the United Nations for the implementation of its work programme in this field may jeopardize the progress achieved to date and prevent fulfilment of the tasks ahead,

Guided by the Milan Plan of Action and other decisions and conclusions of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the recommendations and conclusions of the interregional preparatory meetings for the Eighth Congress,

Convinced of the viability of international co-operation in this field and the need to promote further governmental, professional and public awareness of the issues related to the contemporary dimensions of transnational crime through an effective United Nations programme of action,

1. Takes note of the reports of the interregional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;*
2. Endorses their recommendations, including the draft instruments contained therein, subject to the comments made during the meeting;
3. Commends the Secretary-General of the Eighth Congress for the preparations so far undertaken with extremely limited resources and expenses;
4. Expresses its appreciation to the Committee on Crime Prevention and Control, as the preparatory body for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;
5. Reaffirms the common interest of countries of the region in, and their commitment to, the effective functioning of the United Nations crime prevention and criminal justice programme, so as to be more responsive not only to current crime problems but also to emerging ones, particularly those related to various forms of organized crime and terrorism, illicit drug abuse and traffic, smuggling and contraband, fraudulent transactions, illegal flights of capital and safe havens provided under the guise of bank secrecy;
6. Considers essential that, in the context of the general financial situation of the United Nations, sufficient resources commensurate with the high priority attributed to this programme should be allocated to crime prevention and criminal justice, and that organizational changes, including adjustments of programme activities or resource allocation, should not adversely affect the functioning of the Secretariat but should rather strengthen its status and enhance its role;
7. Expresses the hope that the Secretary-General will continue to promote further technical co-operation in the field of crime prevention and criminal justice, following clear operational objectives for the development

of practical programmes of technical assistance to interested countries and for assessing the needs and resources for such endeavours, on the basis of the following criteria:

(a) Technical assistance should aim at supporting programmes directed at the building-up and reinforcement of national institutions focusing on the planning, policy, administration, legal reforms and training aspects of crime prevention and criminal justice;

(b) Projects in priority areas of direct concern to countries should be formulated and implemented jointly with interested Governments and other funding agencies and national institutes;

(c) Interregional advisory services in crime prevention and criminal justice should continue to be provided to countries in all regions at their request, to the regional commissions and to the United Nations institutes, with solid backstopping by the Secretariat, so as to maximize the benefits of such activities and ensure a proper follow-up on the recommendations for action at the country level;

(d) In the context of the revitalization of the United Nations Trust Fund for Social Defence, new ways and means of raising funds for technical assistance activities should be explored;

8. Expresses its appreciation to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for its valuable contribution to crime prevention and criminal justice developments and expresses the hope that the Institute can expand further its activities and programmes to countries of the region with the continuous support of the Secretariat, relevant United Nations bodies and Governments;

9. Recommends that Member States use the occasion of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to make contributions to the United Nations Trust Fund for Social Defence and invites the Committee on Crime Prevention and Control, at its eleventh session, to designate a "pledging day" for contributions to the Fund, in finalizing the organizational aspects for the Eighth Congress;

10. Encourages Governments, relevant funding agencies and organizations, in particular the World Bank, the United Nations Development Programme, the United Nations Fund for Drug Abuse Control, the Department of Technical Co-operation for Development and the regional commissions to support and complement technical co-operation activities in the field of crime prevention and criminal justice, particularly those activities undertaken at the regional and subregional levels;

11. Stresses the conviction that continuous and widely-based efforts of Governments and intergovernmental and non-governmental organizations, when guided by an appropriate international strategy under the United Nations, will make advances in dealing with criminality and in strengthening bilateral and multilateral co-operation to combat transnational crime;

12. Supports the efforts of the Secretary-General to enhance the role of the Crime Prevention and Criminal Justice Branch;

13. Calls upon the Secretary-General to give priority attention to the development of strategies, as an integral part of the crime prevention and criminal justice programme, towards combating illicit drug abuse and traffic,

international terrorism, environmental offences, crimes against the cultural patrimony and other forms of transnational criminality with major transborder consequences, and also to the elaboration of international guidelines on bank secrecy to ensure that ill-gotten wealth is not kept in safe havens under the guise of bank secrecy;

14. Requests the Eighth Congress to pay special attention to the present structure and functioning of the United Nations programme in this field and to recommend the required action to ensure full responsiveness of the programme to present priorities and emerging needs of Member States, taking fully into account the recommendations of the Committee on Crime Prevention and Control, at its tenth and eleventh sessions, on the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice;

15. Requests further the Eighth Congress to identify priority areas for a new international convention on crime prevention and criminal justice co-operation, taking into account contemporary developments as well as the newly emerging trends in this area.

INTRODUCTION

1. The Asia and Pacific Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was the first of a series of five regional meetings convened to discuss the substantive items included in the provisional agenda of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to be held in 1990, in pursuance of Economic and Social Council resolution 1987/49 of 28 May 1987, and General Assembly resolution 42/59 of 30 November 1987. The Meeting was organized by the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna/Centre for Social Development and Humanitarian Affairs (UNOV/CSDHA).

I. ATTENDANCE AND ORGANIZATION OF WORK

A. Date and venue of the Meeting

2. The Meeting was held at the headquarters of the Economic and Social Commission for Asia and the Pacific (ESCAP), at Bangkok, Thailand, from 10 to 14 April 1989.

B. Attendance

3. The Meeting was attended by representatives and experts from 22 States members of ESCAP, by observers from United Nations bodies, specialized agencies and intergovernmental and non-governmental organizations, and by the Chairman of the Committee on Crime Prevention and Control. A list of participants is given in annex I.

C. Opening of the Meeting

4. The Executive Secretary of ESCAP, in his opening statement, pointed out that crime, delinquency and violence ranked high among the serious social problems accompanying the dynamic economic development taking place in Asia and the Pacific. Although there was every expectation that current trends in the relentless pursuit of economic growth could do much to enhance the quality of life of the population, there were examples of worsening social conditions. In rapidly developing countries the disjunctions between emerging social expectations and traditional life-styles tempted many to turn to crime. Delinquent behaviour should not be regarded simplistically as a matter of law enforcement. Long-range criminal justice and social policies were required, taking into account the regional and national circumstances. Economic growth had to be guided along socially responsible lines and Governments needed to pay more careful attention to a judicious balance between the social and economic factors in overall development planning. Regional co-operation along those lines had been strengthened not only by ESCAP, which had recently published a set of guidelines on social measures for the prevention of crime among youth and was providing regional advisory services, but also by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI).

5. The Minister of Interior of Thailand, addressing the Meeting on behalf of the Government of Thailand, stressed that crime, as one of the major problems besetting the world of today, could hamper the development of nations in the social, economic and political fields, destroying the quality of life and the dignity of human beings. Each country had its own strategies and measures to cope with it, but while some were successful in their efforts, others were

not. The Eighth Congress, the topics of which had been carefully selected to address global needs in combating crime, would be an important forum for exchanging international experiences and setting standards in relation to the prevention of crime and the treatment of offenders.

6. The Director-General of the United Nations Office at Vienna and Secretary-General of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders noted that crime had increasingly assumed transnational dimensions, with repercussions on fundamental freedoms, domestic peace and internal security. In an interdependent world where the perpetrators of crime seemed to have outpaced society's capacity to react, only a collective response could make inroads into the seemingly intractable contemporary crime situation. Illegal drug trafficking fostered other criminal activities, subverting national economies and impairing the social fabric.

7. In 1988 a new United Nations Convention to suppress illicit drug trafficking had been finalized in Vienna, providing for the seizure of assets and effective mechanisms to hit drug traffickers where it hurt them most - in their pockets and their liberty. The value of the illicit traffic in drugs had surpassed that of trade in oil, and was second only to armaments. Violence was also extending its reach far beyond national frontiers, as evidenced by a very marked increase in international terrorist incidents, introducing a random and highly dangerous and inhuman element into international relations. Citizens living permanently in fear of crime, demoralized by pervasive and unpunished corruption, or intimidated by flagrant abuses of power, were not likely to contribute fruitfully to national life.

8. After having given an overview of the main subjects to be considered by the Eighth Congress, she emphasized that crime prevention policies would be relevant and effective only if the institutional capacity to carry them out was available, ranging from the level of local Government to that of the United Nations. The United Nations crime prevention and criminal justice programme had received laudatory reviews, but unless political and financial support by Governments for the programme was secured, the Organization would not be able to provide the international community with the services and assistance requested by countries in need.

9. The Chairman and Representative of the Committee on Crime Prevention and Control, speaking on behalf of the Committee, pointed out that his presence at the Meeting was intended to facilitate the work of the Committee as the preparatory body for the Congress, thus allowing for an even better co-ordination and appropriate consideration of all regional aspects. He noted that the very existence of human rights and fundamental freedoms was worth little if those rights and freedoms were threatened by rampant criminality. Many States were not able to counteract their crime problems alone.

10. Improved methods of international co-operation had to be devised for promoting social peace, internal security and public safety, thus alleviating the plight of victims of crime and ensuring respect for basic human freedoms. Exploring various ways to achieve that goal, proposing viable solutions and agreeing upon practical action, based on the principles of solidarity and mutual collaboration among States, would be the major tasks for the Eighth Congress.

11. While in national budgets the deleterious impact of crime was duly acknowledged, at the international level the United Nations Secretariat, with fewer than 10 professional staff members, had tremendous responsibilities. The Committee had concluded that the United Nations must assist Member States more effectively in their efforts against crime, by serving as the focal point for international co-operation. Strengthening the Crime Prevention and Criminal Justice Branch at Vienna was the essential first step towards the implementation of an international strategy and comprehensive programme to prevent crime and give world-wide support to criminal justice administration, a field in which Governments were urged to take appropriate remedial action.

D. Election of officers

12. The Meeting elected the following officers by acclamation:

Chairman: Rerngtham Ladpli (Thailand)
Vice-Chairmen: Jin Jian (China)
 Trevor P. Frank de Silva (Sri Lanka)
Rapporteur: Cicero Campos (Philippines)

E. Adoption of the agenda and organization of work

13. The Meeting adopted the following agenda:

1. Opening of the Meeting
2. Election of officers
3. Adoption of the agenda
4. Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation
5. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures
6. Effective national and international action against: (a) organized crime; (b) terrorist criminal activities
7. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions
8. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting
9. Consideration of the conclusions and recommendations and adoption of the report of the Meeting.

II. REPORT OF THE DISCUSSION

Topic 1. Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation

14. Topic 1 was introduced by the Executive Secretary of the Eighth Congress, who stressed that increased collaboration at all levels was necessary to combat the serious new forms of transnational criminality. Crime was not to be treated as an isolated problem, but rather as a complex and multidimensional phenomenon requiring systematic strategies and differentiated approaches by the criminal justice system, in accordance with existing human rights standards. The constraints and problems impeding an effective international response to crime had already been examined in depth. Crime control required deep commitment and more incisive, effective international action, in which the United Nations had a prominent role to play, in accordance with the Milan Plan of Action 1/ adopted by the Seventh

United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Technical co-operation activities had to be strengthened, with the Secretariat performing a vital technical, operational and field-oriented function. He referred to the recommendations of the interregional preparatory meeting on topic 1, held at Vienna in February 1988, and of the Committee on Crime Prevention and Control at its tenth session, indicating that they could serve as a useful basis for discussion of the topic.

15. The Meeting commended the United Nations Secretariat and the Committee on Crime Prevention and Control for the careful preparation of the documents, particularly the discussion guide, and for the valuable material contained in the reports of the interregional preparatory meetings, including their recommendations, which constituted a viable substantive platform for action by the Eighth Congress. While the breadth and complexity of the issues to be discussed under topic 1 was acknowledged, the need to focus on specific and practical measures was also emphasized.

16. All speakers stressed the importance of topic 1, particularly with respect to the emphasis placed on crime prevention and the allocation of sufficient resources to deal with increasingly alarming rates of criminality, as well as on the assessment of current policies and programmes. In that connection, it was suggested that successful examples of innovative experiences should be carefully collected and disseminated. The economic and social damage to societies could be irreparable if crime was not checked. Different countries were adopting multifaceted strategies to prevent and control crime. Many speakers referred to the increasingly sophisticated forms of criminality involving large amounts of money, to the growing number of violent crimes, or to the serious consequences of environmental offences which deserved special attention from the international community. Co-operation was also needed to prevent smuggling, drug trafficking, the illicit flight of capital, money-laundering, and control over the illegal activities of transnational corporations. While in some countries of the region criminality had grown more than fivefold in recent years, in others there was a more stable trend.

17. Representatives described successful crime prevention techniques employed in their countries through activities involving community participation such as the following: neighbourhood schemes and crime impact studies; situational crime prevention, including reduction of opportunities and target hardening; the improvement of the efficiency and fairness of the criminal justice system; and the introduction of better methods of international co-operation. Some felt that crime prevention should not be restricted to the national level, as it was also a viable concept at the international level; others referred to the incorporation of United Nations guidelines and standards into their constitutions, laws and criminal justice policies and practices. Several representatives described recent reforms based on the principles of humanism, legality, social justice, transparency and supremacy of the rule of law which had been reflected in new criminal codes; while others reported on measures being adopted to include crime prevention in national development plans, or to establish crime prevention co-ordination committees both at the national and local levels, with participation of all criminal justice agencies and the relevant sectors of the population.

18. All speakers expressed their countries' readiness to co-operate in fighting the new forms of crime and their belief that the United Nations should assist in exchanging information on successful techniques, formulating effective multilateral instruments and developing concrete operational projects. The work of UNAFEI was commended by many speakers. The need for training for all types of criminal justice official was stressed, as was

continued research on the origins and effects of certain forms of crime and collection and dissemination of research findings and the results of successful experiences. In that connection, the establishment of the United Nations Criminal Justice Information System was particularly welcomed.

19. Many speakers referred to the nefarious effects that modernization, urbanization, a laissez-faire market economy and unemployment had on traditional values and social control mechanisms. The widespread effects of illicit drug trafficking and pervasive corruption of public officials not only undermined national economies but also eroded the very fabric of societies. In that connection, the representative of the United Nations Fund for Drug Abuse Control (UNFDAC) informed the participants about the expanded activities and programmes supported by the Fund, both within the countries of the region and in other parts of the world, stressing the role of the entire criminal justice system, recalling Seventh Congress resolution 3 on international co-operation in drug abuse and control, 2/ and underlining the significance of the multilateral approach. Also noted were the effects of technological progress, as reflected in computer crimes, and the importance of having access to sophisticated technology to trap transnational criminals. Many schemes of bilateral and multilateral co-operation and judicial assistance were described. It was felt that the United Nations could be an excellent forum for the exchange of expertise and information and a facilitating agent for strengthened international co-operation.

20. The need to enact national legislation that was effective in combating transnational crime, particularly smuggling and the illegal outflow of capital, was stressed, as was the urgency for countries that abetted the illegal transfer of money through their bank secrecy laws to review their regulations and penalties to prevent collusion in unlawful activities. Examples of effective criminal laws, export and import administrative procedures, and schemes to prevent illegal international transactions should be reported to the United Nations and made available to countries interested in improving their legislation.

21. All participants agreed that law enforcement and criminal justice officials should be equipped to deal with the sophisticated techniques and means available to the criminal syndicates. Co-ordination and co-operation at the national and international levels were necessary to challenge the transnational criminal networks. Training of personnel and strengthening of existing collaborative arrangements were particularly emphasized.

22. The participants recommended that even legitimate enterprises must be carefully monitored so as to prevent their engagement in illegal activities and damage to the national economy.

23. The dissemination of information on effective measures and existing regulations to control transnational criminality was to be encouraged in order to facilitate the development of appropriate national, bilateral, and multilateral instruments and mechanisms to deal with the emerging manifestations of transnational criminality.

24. The preparation of a manual to combat corruption was strongly endorsed. The planned international anticorruption seminar, to be organized jointly by the Crime Prevention and Criminal Justice Branch and the United Nations

Department of Technical Co-operation for Development, as well as the advisory activities of the regional institutes for the review of national laws, investigation procedures, sanctions and regulatory mechanisms to prevent corrupt practices were heartily welcomed by the meeting.

25. Many speakers referred to the devastating effects that illegal trafficking in narcotic drugs and psychotropic substances had on the law enforcement structure of too many countries. Since control over that type of criminality could not be accomplished without strengthening the entire criminal justice system, drug control projects should be integrated into national crime prevention and criminal justice programmes. In that respect, the participants welcomed the existing collaboration between UNFDAC and the Crime Prevention and Criminal Justice Branch, and expressed the hope that in the future more such projects would be developed.

26. The harmonization of national penal laws, taking into account different legal traditions, was encouraged. Practical arrangements regarding extradition and co-operation in criminal justice matters were also encouraged. The model treaty on mutual assistance was referred to as an example of effective legislation to combat crimes of international dimensions and to minimize their effects on countries not directly involved. With reference to extradition, it was noted that the political offence exception clause was encouraging transnational crime and terrorism, and it was suggested that that aspect should be seriously considered by the Eighth Congress.

27. The future consolidation of the United Nations crime prevention and criminal justice instruments into a comprehensive convention to cover, inter alia, extradition and mutual assistance, transfer of proceedings, enforcement of foreign criminal judgements, implementation of court orders on the forfeiture of illicit assets and transfer of prisoners was strongly supported. The ratification of existing international instruments was also urged.

28. Working groups of experts and practitioners for the development of treaties between countries with different legal systems to obtain evidence conforming to the requirements of both the requested and requesting States, of standardized requests for extradition and mutual assistance and of standards in respect of bank secrecy were endorsed. Further consideration of the complex issues of jurisdiction in order to assist in the process of responding to requests for extradition and mutual assistance was recommended, as was the provision of adequate protection for witnesses.

29. Securing the co-operation of local communities and the general population in preventing and bringing to the attention of the law enforcement authorities crimes with transnational dimensions was a key to controlling the most serious forms of such criminality. Making people aware of the inherent dangers of such criminal activities to themselves, the society in which they live, their cultural patrimony and ultimately their countries was important to prevent their victimization and to uphold law and order. At the same time, the citizenry should be informed of their rights and access to the criminal justice process.

30. Most participants referred to the rising levels of burglary, violent theft and street crime in their countries and stressed the importance of an assessment of preventive mechanisms in various cultural, social, economic and political situations. An inventory of community crime prevention techniques was warmly welcomed by the participants. Some, however, suggested that such an inventory should not be limited to conventional criminality, but should be extended to new forms of crime, particularly environmental offences.

31. There was agreement that a fair and humane criminal justice system must be based on the observance of human rights and have appropriate linkages with social welfare, health, education and employment services in order to rehabilitate offenders and to prevent delinquency. Crime prevention policies should be incorporated into national social economic policies. There was also agreement that in a just and fair system of laws appropriate sentencing policies and dispositional alternatives would ensure greater public support for the functioning of the criminal justice system. Many of the recommended criminal law reforms would save money and prove to be more effective in reducing crime and recidivism than costly incarceration. However, new programmes must be pursued on a holistic basis in order for them to be successful. It was also stressed that traditional social control mechanisms should not be undermined when introducing new laws and that the harmonious coexistence of indigenous conflict-resolution mechanisms with criminal justice operations should be ensured.

32. The establishment of a computer-based global network to exchange information on crime data, new legislation, successful techniques, meetings and developments of interest to the international criminal justice community was welcomed by the Meeting. A demonstration of the electronic mail system and transfer of data files was arranged and institutions were urged to join the United Nations network. Member States were invited to contribute with financial support and expertise and encouraged to provide relevant information. It was stressed that institutions and countries without access to computers should be provided with information in hard-copy form and through newsletters. In that respect, the participants recognized the significance of improving national, regional, and interregional data bases on crime trends and innovative methods of crime prevention and control, as well as the exchange of information on demonstration projects, research activities and training programmes among the regional and international institutes and with appropriate non-governmental organizations.

33. Unanimous support was expressed to equip the Branch with the necessary means to respond to the magnitude and divergent forms of criminality currently faced by the international community and by Member States lacking the resources to cope with the problem on their own. The role of the Branch as facilitating agent of strengthened international co-operation and clearing-house of reliable information was particularly stressed.

34. It was also recommended that technical co-operation in the field of crime prevention and criminal justice should be increased on a bilateral and multilateral basis. Since development financing agencies were beginning to appreciate that effective crime prevention policies and a just criminal justice system can contribute to sound and balanced socio-economic development, Governments were urged to request the inclusion of crime prevention and criminal justice projects in the country programmes of the United Nations Development Programme (UNDP), the World Bank and other major bilateral and multilateral funding agencies.

35. Considerable discussion took place on how Governments and other funding agencies might contribute in kind or financial resources to the United Nations Social Defence Trust Fund on a regular or ad hoc basis for specific projects. Even nominal pledges were encouraged to indicate broad support for the Fund. Technical co-operation among developing countries was strongly supported. Accordingly, Governments and the United Nations funding entities were encouraged to contribute to the Fund, thus further developing the research, training and technical assistance capacities of the United Nations regional and interregional institutes, in order to meet the growing requests from developing countries for assistance.

36. The important inputs that can be made by scientific, professional and non-governmental organizations were fully recognized. Their technical expertise and resources should be taken advantage of to complement the work of the United Nations.

37. At the conclusion of its deliberations on topic 1, the Meeting reviewed the recommendations of the interregional preparatory meeting on that topic, as contained in paragraph 4 of its report, 3/ approving them for further consideration and action by the Eighth Congress, subject to the observations mentioned in the preceding paragraphs. Such unanimous approval was welcomed by the representative of the Committee as a demonstration of the soundness of the work so far done. While the Committee would be particularly pleased with the suggestion to formulate an international convention on co-operation in criminal justice matters, he was seriously concerned with the tremendous amount of work still to be accomplished for a successful Congress. Accordingly, he urged Governments to take urgent action, at all appropriate levels, to strengthen the Secretariat unit responsible for those preparations.

Topic 2. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures

38. The Executive Secretary of the Eighth Congress, introducing the substantive issues, noted that imprisonment and criminal sanctions in general had remained one of the most pressing problems during the 40 years of involvement of the United Nations in those matters. The prison in its historical evolution had become an institution to which society had delegated the administration of the most severe form of social control: the penal sanction. The rationale and use of imprisonment, however, had changed in the past and no doubt would change in the future.

39. A number of issues required special consideration. The problem of imprisonment should be seen from the standpoint of proper management of the entire criminal justice system, an approach which had been recommended by the Seventh Congress. There had been a widespread realization that the whole area of sentencing might benefit from reform and the development of clearly stated new policies. The problems of judicial delay, detention pending trial and prison overcrowding had to be considered in their own right. Guidance was needed as to what innovative strategies should be followed.

40. The delegates noted with appreciation the recommendations contained in the report 4/ of the interregional preparatory meeting on topic 2 and the observations of the Committee contained in the report 5/ on its tenth session.

41. Commenting on those documents, the participants agreed that the situation of men, women and children in prisons was causing increasing concern in the region. The search for humane, fair and effective methods of treatment, responsive to the changing socio-economic and cultural conditions of society, was continuing. Prison overcrowding was a reality in many countries of the region, the major cause being the large number of prisoners held on remand prior to trial, reaching, in some cases, up to three quarters of the total prison population. Some speakers, on the contrary, mentioned opposite trends which had led to a sharp decrease of the number of persons held in custody, a development not primarily caused by amnesties but by reforms of the penal sanction system.

42. The Meeting expressed its conviction that despite the diversity of legal systems, there should be some practical principles and strategies for reducing detention and imprisonment. The Meeting fully supported the suggestions made

by the interregional preparatory meeting on topic 2 in that area. In particular at the level of detention prior to imprisonment, there should be legislative provisions requiring the courts to adjust the subsequent prison sentence to take into account the period already spent in detention. Law enforcement officials and prosecutors should be trained in properly evaluating whether detention was really justified. Wherever the legal system permitted, policies should be pursued to increase the number of offenders on bail or on recognizance. Both legislators and criminal justice administrators should pay closer attention to the categories of alleged offenders whose detention should be regarded as a last resort. Adjudication of cases should be expedited in order to decrease the number of pre-trial detainees. Criminal legislation should be examined with a view to decriminalizing minor offences and imprisonment for non-payment of fines should also be avoided.

43. There was general agreement that non-custodial measures were a very useful tool in the attempt to reduce prison overcrowding, and that they should be applied to the largest possible extent. A number of speakers emphasized that the administration of criminal justice had to balance out the protection of society with the guarantee of the human rights of offenders. Although alternatives might be more applicable to a wide range of offenders who came into conflict with the law, custodial measures could not be avoided for those who posed a threat to public safety or were in need of segregation in their own interest. Where the safety of the community was not at risk, reparation should take priority over deterrence or retribution. Imprisonment, as a last resort, would still be irreplaceable when dealing with offenders whose acts posed a serious threat to the society or to themselves.

44. The participants appreciated the valuable contribution made by UNAFEI in the formulation of the United Nations Draft Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) and unanimously recommended that those draft Rules be adopted by the Eighth Congress as the main instrument in that regard.

45. The Meeting also welcomed other inputs made in that area by non-governmental organizations active in crime prevention and criminal justice, such as the draft standard minimum rules for the implementation of non-custodial sanctions and measures involving restriction of liberty, drawn up by the International Penal and Penitentiary Foundation. Discussion within the international community was desirable in view of the further refinement of the draft Tokyo Rules for their final presentation to the Eighth Congress. The formulation of the final draft should be done in a wording acceptable to the large majority of Member States, taking into account the broad mandate given by the Seventh Congress, current developments and the social and cultural circumstances prevailing in each country.

46. A number of speakers pointed out that there existed some differences between the standards provided in the proposed rules and current legislation and legal practice, but indicated their countries' intention to adhere to those standards to the best of their capabilities and within the existing social, cultural and religious settings. Other participants pointed out that in their countries the provisions included in the draft Tokyo Rules were practiced to a large extent or were very close in spirit and content to current draft legislation that covered major structural reforms in the judicial system, including the extension of discretion of police and prosecutors to bring the criminal procedure to an end, community service, collective work and educational and corrective labour, an extended fine system, deferred sentencing and the introduction of enlarged application of probation and parole.

47. It was also stressed that non-governmental organizations and volunteers could be used more widely in providing assistance to supplement the existing resources provided by the Government to carry out non-institutional measures, as such approaches had shown very positive results. A number of speakers also reported on the possibility of representatives from public, neighbourhood or labour organizations participating in the formal procedures for the application of the measures. In one country more than 400,000 such assistance groups existed. The mobilization of the vital forces of society could help in cases where imprisonment was not considered an indispensable measure. In that connection, a change of paradigm in the treatment of offenders was observed with a shift from the individual perspective to community approaches. Community resources could also be used to raise public support and awareness at the grass-roots level.

48. While in some countries problems of overcrowding had been dealt with by transferring prisoners from overcrowded city prisons to the countryside and by more extensive use of pardons and amnesties, the Meeting agreed that structural changes in the system of penal procedure, such as decriminalization, depenalization and new alternative sanctions would improve the present critical situation of many prisons throughout the region.

49. In the region there were long traditions of dispute-settling outside the criminal courts. In one country almost nine out of 10 reported cases were solved by some kind of arbitration, without being registered in official records. Other adjudicating courts and similar organs dealing at the local level with actions where little formal intervention seemed to be needed were also mentioned.

50. The Meeting acknowledged the many difficulties of restructuring criminal policy at the national, regional and interregional levels. Even when community sanctions might not always produce what was originally expected in terms of either rehabilitative effects or lower costs and reduced crime rates, they nevertheless were vital to the development of a more humane approach to the treatment of offenders, having a rationale going beyond rehabilitation. Of equal importance were compensation and restitution for the victims of crime, as were other sanctions designed to meet the needs of the offender to be integrated within the community, fully satisfying the ends of justice.

51. The participants agreed that there should be continuous and serious efforts made at the national and international levels to train criminal justice administrators in the use of non-custodial measures. Information on the purpose of non-custodial sanctions and specialized training was therefore necessary for the legal profession and for those involved in the implementation of such sanctions. Not only judges but also probation officers and clerk staff should be aware of the principles governing the application of community sanctions.

52. The need for continuous prison education was stressed. It was further suggested that vocational training and adult education in general be integrated into all prison administrative systems. As the observer from the International Council for Adult Education pointed out, it was well known that the rate of illiteracy was highest among prisoners as compared with other groups of the population. Since the Eighth Congress would coincide with the International Year of Literacy, appropriate attention should be given to educational programmes in prisons in order to ameliorate educational deficiencies.

53. The representative of the World Health Organization (WHO) made a presentation on the acquired immunodeficiency syndrome (AIDS) in relation to

prisons. The control of AIDS depended on the active collaboration of many elements in society including the justice system. The health sector in isolation was unable to react effectively to the AIDS epidemic. The Global Programme on AIDS was started by WHO in 1987. In view of the new problems that had appeared since AIDS penetrated the prison environment, a research project on prison and AIDS was planned in co-operation with UNOV/CSDHA, with a view to presenting a manual on the subject for the consideration of the Eighth Congress. Several factors increased the probability of prisoners being seropositive on entry as compared with the general population. The extent of drug use by injection among offenders and the demographic structure of the prison population, predominantly young men, corresponded closely to the demographic distribution of the risk groups for infection by the human immunodeficiency virus (HIV) in the general population.

54. Prisoners should be provided with a level of health care equivalent to that of the community in general. The medical secrecy concerning HIV tests and results had to be preserved. Information and counselling to prisoners and staff concerning issues directly connected with AIDS should be available, focusing in particular on the risks of homosexual behaviour and intravenous drug abuse. The prison has to choose ways to limit risks of being infected by the use of dirty needles or syringes. Three reactions seemed possible: reinforcing security measures; providing needles and syringes to prisoners on the same basis as in the community; or reducing the risk of heroin abuse by methadone maintenance treatment programmes in prison. The first solution could not guarantee full success, and it would create tension and mistrust due to the required control measures. The second option was strongly opposed by prison authorities, while the third proposal led to both practical and ethical questions related to the selection of patients and follow-up treatment after release. Correctional authorities had to face the issue of the growing number of prisoners who would develop AIDS and die in prison if early release was not agreed upon. WHO had suggested to Member States a review of their penal admission policies with a view to reducing the number of drug users entering prison and to using alternative measures. The above-mentioned manual would focus on those and related issues, further elaborating on them.

55. At the conclusion of its discussion, the Meeting reviewed and approved the recommendations contained in the report of the interregional preparatory meeting on topic 2. With respect to resolution 1, paragraph 2(b), contained in those recommendations, one participant observed that the extended use of amnesties might lead to increased instability in the community, as no rehabilitation or education was provided to those released. Therefore, other strategies should be sought.

56. With respect to resolution 1, paragraph 12, it was noted that the wording "... minimize the punishment of those not yet convicted of an offence" had to be changed to indicate that in view of the presumption of innocence, pre-trial detention must not be considered as punishment.

Topic 3. Effective national and international action against:
(a) organized crime; (b) terrorist criminal activities

57. In introducing topic 3, the Executive Secretary of the Eighth Congress stated that only multilateral co-operation could thwart the grave threats to humanity posed by organized crime and terrorism. The interregional preparatory meeting on topic 3, in pursuance of the relevant resolutions of the Seventh Congress, had prepared a series of guidelines on measures to combat organized crime and of recommendations related to preventive action against terrorism, including model treaties on mutual assistance in criminal justice

matters and extradition, which he hoped the Meeting would review. He also drew attention to revised versions of the model treaties contained in two conference room papers before the Meeting.

58. All the participants were unanimous in emphasizing the importance of topic 3, devoted to organized crime and terrorism, as well as the urgent need to develop and apply effective countermeasures against those threatening contemporary problems. While organized crime had in recent years gained tremendous economic and financial power, infiltrating into legitimate business institutions, public administrations and even the political structures in a number of countries, terrorism was also increasingly recognized to be a serious threat to the international community, a threat to be condemned regardless of its motivation or form. Effective international co-operation would not only greatly contribute to saving the lives of countless innocent victims, but also to the restoration and maintenance of the rule of law. Guidelines to complement existing co-operative arrangements, serving as a model for new national legislation, would contribute to the harmonization and increasing uniformity of domestic legislation. That, in turn, would facilitate further collaboration aimed at the prevention and control of those most serious forms of criminality.

A. Organized crime

59. The participants proceeded to describe the activities of organized crime groups in their countries and the countermeasures taken to suppress them. Many speakers referred to the close links between illegal drug trafficking and "mobsters" and their involvement in "white slavery", smuggling of arms and illegal export of antiquities, gold and other products. The corrosive influence of organized crime groups on public administration and political life was also noted.

60. Some countries had adopted "comprehensive counter-mobster policies" involving public co-operation in order to isolate those dangerous groups. New legislation enacted to deal with organized crime provided for: interception of telecommunications; reporting of large cash transactions; freezing and confiscation of proceeds of criminal activity; restraining orders on property; monitoring of money trails; strict penalties for drug smuggling and special offences involving organized fraud and money-laundering; establishment of special organized crime units trained in the investigation and detection of sophisticated forms of crime; and co-operation with other countries.

61. It was reported that in one country there were 3,200 organized groups, with a total membership of 86,000, involved in drug trafficking, unauthorized gambling, bookmaking and extortion. In most countries, however, organized crime did not yet have such consistency or substantial international linkages, except in relation to external smuggling partners, and criminal networks were only loosely organized, although large numbers of individuals might be engaged in illegal activities such as smuggling and contraband. In particular, countries with long borders were powerless to stop those widespread forms of crime, from which neighbouring countries were often profiting. Horrendous new forms of transnational crime were also appearing in addition to white slavery, involving the sale of human organs (for example kidneys) from poor people and the theft of children by international adoption rackets.

62. In reviewing the recommendations contained in the reports of the inter-regional preparatory meetings, preventive strategies, improved criminal legislation, new criminal investigation techniques and the creation of interdisciplinary law enforcement teams were particularly noted. Several speakers emphasized that mobilizing public support and enlisting the co-operation of

the mass media had helped to counter public revenue fraud and to expose major criminals. Multidisciplinary research into the structure and operations of organized crime had proven effective in identifying the weak points of the criminal syndicates. There was a need for the frequent and regular exchange of experiences in those and similar matters. The representative of Japan noted that a seminar on organized crime was being organized every year with the participation of South-East Asian countries.

63. Improved training to upgrade the skills of law enforcement and judicial personnel and operational schemes against organized crime had given positive results. Risk analysis to assess vulnerability to fraud, computer crime, and corruption had an important role to play in taking preventive countermeasures or making the commission of crime more conspicuous. All speakers emphasized the need for reform of banking regulations to prevent money-laundering. Effective mechanisms to require institutions both to produce documents in order to follow the money trail of criminal activities and to provide information on the financial transactions of particular individuals and on large-scale suspect transactions were endorsed. Electronic surveillance and wire-tapping were important means of trapping the heads of organized crime syndicates, with full regard for basic human rights concerns. Protection of witnesses against violence and intimidation was also vital for the conviction of mobsters.

64. In order to strike at the heart of organized crime rings, the complicated links between the corporate heads and the alleged illegal activities must be proven. That required perseverance, effective investigative skills, solid and reliable intelligence, a capacity to understand the complicated financial arrangements, effective co-operation in the production and collection of evidence and, above all, a great dose of courage to resist corruption and intimidation. In that connection, international collaboration and solidarity was indispensable, not only through the exchange of information, but also through providing advice, training and new technological equipment and through the innovative design of mutual assistance schemes.

65. International co-operation was agreed to be the most important ingredient in capturing and convicting transnational criminals. Many speakers called for a continuous flow of relevant data, technical and expert advice and mutual assistance in criminal proceedings and for the enforcement of foreign judgments, including forfeiture of illegal assets. In view of the increasing number of co-operation agreements being signed, the importance of the draft bilateral model treaty on mutual assistance in criminal matters was commended. Although several representatives had originally had some reservations about certain provisions, the Meeting agreed that great progress had been made in the revised version of the model treaty submitted to it.

B. Terrorist criminal activities

66. Terrorism against innocent victims was unanimously condemned by the Meeting. It was important to recognize that all acts of terrorism, irrespective of the reasons, goals or motivations behind them, were, because of their lethal consequences and the violent means used, acts of a criminal nature and as such condemnable and subject to prosecution. This implied that the perpetrators of criminal acts characterized as international terrorism must be dealt with through proper investigation, prosecution, trial and conviction if found guilty, regardless of their motivations and objectives. It also implied that methods to fight international terrorism should be in line with the principles of international law. Accordingly, terrorism should not be used as a justification for interference in a country's internal matters.

67. Some participants noted that the distinction should be kept with regard to the activities of national liberation movements undertaken to repel invaders. Various representatives indicated that their countries had recently signed international conventions prohibiting terrorist violence. The proposal of the General Secretary of the Communist Party of the Union of Soviet Socialist Republics to establish a United Nations Tribunal to deal with cases of international terrorism was urged for consideration by the United Nations.
68. Several speakers pointed to the links between terrorist organizations and organized crime, particularly with regard to the acquisition of sophisticated weapons. National legislation for the effective control of weapons, ammunition and explosives and international regulations on the import, export and storage of such objects should be developed in order to prevent those weapons from being used by terrorists or organized crime syndicates. International co-operation in securing evidence with respect to the prosecution or extradition of terrorists was underlined. In that connection, the model treaties on mutual assistance and extradition were again mentioned. The political offence exception for the extradition of terrorists should be limited to cases where the requested State decides to undertake prosecution of the person or agrees to transfer the proceedings to another State to conduct the prosecution. A recent example of lack of co-operation was cited by a participant.
69. The representative of the International Criminal Police Organization (Interpol) described the activities of an anti-terrorism unit formed to advise on how to deal with terrorist groups and to disseminate known information about terrorists at large. Interpol had published a Guide to Combating International Terrorism and was studying linkages between terrorists and drug traffickers. A recent international symposium on terrorism had been held at the Interpol general secretariat. In the future, Interpol would organize working group meetings and prepare reports on terrorism in particular regions.
70. The Meeting agreed that a system of reporting acts of terrorist violence and the responses of States should be developed within the United Nations, and that greater uniformity in the laws and practices of States concerning jurisdiction should be encouraged. However, several participants cautioned against the over-extension of territorial jurisdiction to avoid interference in the internal affairs of other countries. International co-operation for the effective prevention and control of terrorism was deemed preferable, especially when directed to the improvement of legal instruments and the effective interplay of relevant law enforcement agencies.
71. The revised version of the model treaty on extradition submitted to the Meeting was considered to be a far improved basis for further action by the Eighth Congress. The question was raised, however, whether it was opportune to have the three different model treaties on mutual assistance, extradition and transfer of criminal proceedings. Probably the consolidation of their provisions in one single document would produce more effective results. In commenting on this, it was noted that consensus on several models and their subsequent application by Member States would facilitate the work on a new convention on international co-operation on criminal matters.
72. At the end of its discussion, and taking into account the comments mentioned in the previous paragraphs, the Meeting approved the recommendations contained in paragraphs 52-115 of the report 6/ of the interregional preparatory meeting on topic 3, as well as the two models on mutual assistance and extradition submitted to the Meeting. However, in view of the late submission of the draft Model Treaty on Extradition, some delegations reserved the right to forward observations, as appropriate, to the Secretariat.

Topic 4. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions

73. In introducing topic 4 the Executive Secretary of the Eighth Congress stated that the issue had been of concern to the United Nations since the very first Congress on the Prevention of Crime and the Treatment of Offenders. A milestone had been reached by the adoption by the Seventh Congress of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). ^{1/} The impact of the Beijing Rules had indeed been great, as many countries had already started to incorporate the provisions of that international instrument into domestic legislation and practice. The Eighth Congress would have before it, in accordance with the recommendations of the Seventh Congress and the Committee on Crime Prevention and Control, two new instruments designed to complement the Beijing Rules - the draft Guidelines for the Prevention of Juvenile Delinquency (Guidelines of Riyadh) and the draft Rules for the Protection of Juveniles Deprived of their Liberty. The issue of domestic violence and appropriate measures to deal with child abuse, wife beating and violence against the elderly was also to be dealt with under topic 4, together with the question of the implementation of the Beijing Rules.

74. Most of the participants stressed the relevance of the topic. The upsurge of juvenile delinquency and violence and criminality among youth was a matter of serious concern to many Governments. Notwithstanding the serious efforts to design effective prevention programmes, to humanize the treatment of juveniles in detention and to avoid indiscriminate institutionalization, in some countries of the region juvenile delinquency rates were still on the increase. Constant attention, therefore, was required together with well-conceived and integrated social measures, broad community intervention and effective policy action.

75. After extensive discussion of the measures being undertaken in the various countries of the region to prevent juvenile delinquency as well as their efforts to implement the Beijing Rules, the Meeting underlined the significance of the proposed Guidelines of Riyadh. Most countries already had comprehensive community-based programmes to meet the needs of young persons. Several speakers emphasized that the family, the educational system and the community were the primary agents responsible for the successful socialization and integration of children. Government agencies, voluntary associations, religious groups and sports clubs could provide a wide range of services to support and supplement the care provided by families. Special programmes needed to be developed to protect young people from abuse, neglect, victimization and exploitation. Government agencies had a special responsibility to provide the necessary services for homeless children and those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups. Comprehensive strategies and programmes needed to be developed for the prevention of alcohol, drug and other substance abuse by young persons.

76. The draft Guidelines of Riyadh were in line with current practices in the region. In several countries, recent reforms and legislative action had been aimed at preventing victimization, abuse and exploitation of children and young persons and at prohibiting torture or other harsh, cruel, inhuman or degrading treatment, correction or punishment measures at home, in schools or in any other institution.

77. The Meeting supported the exchange of information, experience and expertise gained from projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice, and welcomed the establishment of the United Nations Juvenile Justice Information Network.

Technical co-operation, particularly through demonstration projects, workshops, preparation of training materials and evaluation of programmes, was strongly endorsed. The Meeting felt that the United Nations should play an active role in the conduct of research, scientific collaboration and the formulation of policy options and serve as a source of reliable information about effective modalities for delinquency prevention. In that connection, appreciation was expressed for the recent seminar, funded by the United Nations regular programme of technical co-operation, on the prevention and treatment of juvenile delinquency through community participation, which took place at Beijing in October 1988, and it was hoped that training workshops might take place at national and regional levels.

78. Some participants, however, noted that further work was required on some of the provisions of the proposed guidelines, including the scope of their applicability, the terminology used (children, youth, juveniles) and the elimination of internal inconsistencies.

79. The representative of the International Council for Adult Education emphasized the need for basic literacy for delinquent poor children to enter the mainstream of society. Vocational training and basic education programmes were also necessary in juvenile detention facilities.

80. Several participants described the rehabilitation programmes available in their system of education through work institutions, borstals, homes for delinquent children, observation and protection centres, training schools and work camps. Others explained the recent reforms in laws pertaining to juveniles and the operation of their juvenile justice system.

81. All representatives supported the objectives set down in the new draft Rules for the Protection of Juveniles Deprived of their Liberty. Some felt, however, that certain provisions were too utopian and should be reformulated in order to reflect the capacities of the countries in the region to implement them and guarantee the rights of juveniles. The issue of the relationship of the new instrument to the Beijing Rules was also raised. One country had prepared extensive comments which were circulated to the Meeting. Other representatives proposed various amendments, particularly with reference to rules 4, 7, 8, 32, 34, 43, 49, 53, 74 and 80. Although some of the drafting suggestions were discussed in the Meeting, there was not enough time to reach a consensus on a reformulated text. Nor was it considered appropriate to redraft the proposed rules at the current stage, without taking into account the comments of the other regional preparatory meetings.

82. It was therefore agreed that the Secretariat should prepare a new text for consideration by the Committee on Crime Prevention and Control, after the interregional consultation process was completed, focusing on the major principles to be observed in dealing with juveniles deprived of their liberty.

83. The deprivation of liberty should be effected in conditions and circumstances that would ensure respect for the human dignity of juveniles, and all efforts should be made to minimize the detrimental effects of imprisonment. The purpose of the rules should be to provide a ready reference, encouragement and guidance to professionals working in the juvenile justice system, making clear that the rules were intended to establish minimum standards accepted by the United Nations for the protection of juveniles, in accordance with the economic, social, political and cultural conditions of each country. Where appropriate, States should incorporate the rules into their legislation and provide effective remedies for their infringement.

84. The Rules should, accordingly, set down general standards to be observed pertaining to the rights of juveniles and to the management of juvenile detention facilities with regard to medical care, education, vocational training, work, recreation, exercise of religion, contact with the outside community, family visits, physical environment and accommodation.

85. As there was consensus on the basic purposes and the major principles of the draft rules, it was agreed to forward to the Eighth Congress, through the Committee, a revised text containing provisions upon which there was broad agreement, after taking into account the comments of the other regional preparatory meetings.

86. Further to the assurance provided by the Chairman of the Committee that appropriate attention would be given to the matter at the forthcoming session of the Committee, the Meeting endorsed the recommendations of the interregional preparatory meeting on topic 4, as contained in resolutions I and II of the report 8/ of that meeting.

Topic 5. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting

87. The Executive Secretary of the Eighth Congress, in introducing the subject, pointed out that standard setting had a long tradition in the United Nations system and reflected the continuing concern to secure the human rights of both victims and offenders and to protect all those who came into contact with the criminal justice system. He informed the Meeting about the process followed in the elaboration of the new draft instruments, of their origin and purposes and of the action taken by the Committee on Crime Prevention and Control.

88. Delegates praised the work accomplished so far by the international preparatory meeting on topic 5, the Committee and the Branch. They welcomed the recommendations made and the new draft instruments, considering them to be important contributions to the improvement of criminal justice, the protection of human rights and the establishment of better relations between countries. Accordingly, they should receive the full attention of Governments and the international community. The speakers commended the experts who had contributed to the formulation of the draft instruments, and expressed their appreciation to all those non-governmental organizations involved in that important work.

89. In all their statements, the participants highlighted the significance of the various draft instruments. The issues addressed reflected the efforts to bring general human rights provisions into effect in the criminal justice system (independence of the judiciary, role of lawyers). They aimed at clarifying the relations between law enforcement authorities and citizens (code of conduct for law enforcement officials, use of force and firearms), serving also as tools for more effective co-operation in criminal matters, transfer of proceedings in criminal matters and transfer of supervision of offenders who had been conditionally released. The humanization of the criminal justice system was a matter of major concern for the region and, inspired by that goal, efforts were being made towards that end.

90. With respect to the existing United Nations standards, many speakers provided general information on the situation in their countries, describing recent developments in legal reform in areas such as legal proceedings, the protection of victims, the role of police, prosecutors, judges and lawyers and guarantees against undue interference in their work, stressing their influence

on such endeavours. In fact, the provisions contained in the United Nations standards were either practiced to a large extent or lawmakers were changing existing regulations to conform with the standards. One representative reported on the recent abolition of the death penalty that had been enshrined into the constitution of his country, which also contained provisions relating to the protection of victims of crime and abuse of power. Another representative said that while capital punishment had not yet been completely abolished in his country, the types and the range of its application had been considerably reduced. Juveniles, women and men over the age of sixty were excluded from capital punishment.

91. Other speakers explained that their Governments were well aware of the standards already developed. But owing to the lack of appropriate machinery and the unavailability of the necessary resources, not all standards could be fully implemented. A number of speakers also stressed that religions, local or traditional legal practice and the particular circumstances of each national setting had to be taken into account.

92. Often, however, the United Nations standards were unknown not only to the public at large but also to the professional community. They were seldom used in universities and even criminal justice experts did not seem to be always aware of the latest developments. Much more should be done in that respect.

93. The Meeting felt that every effort had to be made to bring the United Nations standards to the grass-roots level in order to allow citizens to refer to them. In many countries practical measures had been taken such as the translation and distribution of standards to law enforcement and criminal justice officials, while in one country several of them had been included in school curricula.

94. The Meeting unanimously called for a compendium including all the United Nations standards in the area of crime and justice so as to have one single reference document at hand. That would be most urgently needed, in order to make the standards known among professionals as well as to the public at large. The compendium should include comments, explanations of the relevant provisions and background material for further reference, as well as a classification of the standards and an exposition of the rationale behind them. Such a compendium would also be a necessary tool for stimulating efforts addressed at the practical realization of all existing standards. That was an area which should receive utmost priority. Even though the Meeting was well aware of the financial restraints the United Nations was facing, there was general agreement that such a compendium should be made available to the Eighth Congress, as had also been recommended in draft resolution VIII of the Committee at its tenth session.

95. Many participants stressed the need to develop new standards. Prosecution was an area of particular concern, as reflected in resolution 7 of the Seventh Congress. 2/ However, new standards all too often seemed only further to refine areas already covered by previous instruments. The opportunity of formulating new standards should, therefore, be examined in depth, in the light of the already existing norms, to avoid repetition or possible overlapping. The need for such an examination would seem to be confirmed by the content of the Model Agreement on the Transfer of Foreign Prisoners, as adopted by the Seventh Congress, 9/ and the new draft Model Agreement on Transfer of Supervision of Offenders Who have been Conditionally Sentenced or Conditionally Released.

96. Eventually, some kind of formalized standard-setting procedure, to be agreed upon by the Committee, could help to streamline the process. At the same time, most of the groundwork for the elaboration of new standards, as well as the monitoring of progress in their implementation had to be done by the Committee and the quinquennial congresses through the United Nations Secretariat. That task could be carried out properly only if adequate financial and human resources were made available.

97. There was general agreement that regional co-operation was particularly important for securing the implementation of international instruments. Advisory services should be provided in close co-operation with the inter-regional and regional advisers, with UNAFEI, and also with the Crime Prevention and Criminal Justice Branch at Vienna. In that connection, one speaker noted that non-governmental organizations such as the Asia Crime Prevention Foundation in Japan could also contribute substantially to the standard-setting and implementation process.

98. With respect to the draft principles and model agreements contained in the report of the interregional preparatory meeting on topic 5, the participants made a number of observations regarding the applicability of the proposed standards in different national settings and possible problems related to their future implementation. The comments made with respect to specific provisions in the various draft instruments were as summarized below.

Draft Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

99. The draft was considered to be useful and relatively well-balanced and to reflect existing regulations and practices.

100. It was suggested that reference should be made in principle 1 to the definition of law enforcement officials, as provided in article 1 (a) of the Code of Conduct for Law Enforcement Officials. 10/ In principle 2, the right of self-defence had to be given appropriate consideration. With respect to principles 11 and 12, it was noted that it might be difficult for officials to determine what represented "a great danger to the community" and always to give a clear warning of their intent to use firearms. Principle 26 should reflect the fact that if it were impossible to determine the illegal nature of the order to use force or firearms, no criminal or disciplinary sanction should be imposed. In that case, responsibility should rest upon the individual who had issued the order.

Draft Basic Principles on the Role of Lawyers

101. The principles on the role of lawyers, their protection from undue interference as well as the right of access to legal counsel were perceived as basic issues for all countries. The draft's specific provisions on the rights, responsibility and functions of lawyers in the field of criminal justice had great significance in strengthening lawyers' functions and ensuring the smooth performance of their work.

102. One country was currently preparing new legislation on the matter, and the draft was already serving as a reference in that process. In other countries, law commissions had considered the role of lawyers and legal aid, including public interest litigation and legal aid to the poor.

103. With respect to the timing of the lawyer's participation in the proceedings, as contained in principle 6, the draft might not correspond to current provisions in some countries. Reference to compliance with national laws might be opportune.

Draft Model Agreement on Transfer of Proceedings in Criminal Matters

104. It was reported that several countries had already concluded a number of bilateral agreements, which had been duly reflected in the provisions of the proposed draft.

105. The wording of paragraph 1 referring to a person suspected of having committed an offence needed to be specified, since it was not clear whether that would also include preliminary investigations. Therefore, time and terms of transfer might be indicated in the following paragraphs 3 to 4, an area which formed an important element of successful crime prevention procedures.

106. The formulation "under military law" in paragraph 6 (b) might create problems if it were to include war criminals.

107. With respect to paragraph 9, the interest of the suspected person and his or her family in the transfer of proceedings was to be taken into account by both the requesting and requested State in making a final decision.

108. Considering the importance of the production and collection of evidence, particularly in cases of transnational criminality, it was recommended that that issue should be given adequate attention by the Eighth Congress.

Draft Model Agreement on Transfer of Supervision of Offenders who have been Conditionally Sentenced or Conditionally Released

109. As there seemed to be some overlapping with the draft Model Agreement on Transfer of Proceedings in Criminal Matters, the elaboration of one single instrument covering both aspects might be considered. The view was also expressed that those arrangements were still in an experimental stage and that not enough countries might be ready for co-operation.

110. With respect to paragraph 10, it was suggested that both States should have the right of revocation.

Draft Guidelines on Prosecution

111. Prosecution without any doubt represented an area where new guidelines were most desirable. At the request of the representative of the Committee, the Executive Secretary introduced a preliminary text of the draft Guidelines on Prosecution for consideration by the Meeting. The draft had been prepared by the Secretariat on the basis of available materials and observations provided by experts, in pursuance of Seventh Congress resolution 7 2/ calling upon the Committee on Crime Prevention and Control to consider the need for guidelines relating to the selection, professional training and status of prosecutors and their role in criminal proceedings. The Meeting considered it essential to present a draft on the subject to the Eighth Congress in order to complement the Basic Principles on the Independence of the Judiciary 10/ and the new draft Basic Principles on the Role of Lawyers. The new text had to be well-balanced, taking into account the need to enhance the rule of law and to protect society, the victim and the offender. Several speakers noted that the provisions contained in the draft were already part of their countries' legislation. Others indicated that certain provisions had to be changed in view of existing national laws or practices. In appropriate cases, reference to national law should be made.

112. With respect to proposed article 8, it was noted that in some countries no immunity was granted from civil or criminal suits if an improper act had

been committed intentionally or with grave negligence. Article 15 should contain a description of the primary functions of prosecution, namely to apply criminal law fairly and speedily, maintain public security and uphold fundamental human rights. It was also suggested that the second sentence of article 18 should be deleted.

113. The Chairman of the Committee welcomed the comments made and suggested that in the future version sufficient attention should be given to enhancing the role of prosecutors and ensuring the smooth functioning of the criminal justice process.

114. At the conclusion of its deliberations, the Meeting expressed its full support for the draft instruments, endorsing the resolutions contained in the report 11/ of the interregional preparatory meeting on topic 5, and recommending them for presentation to the Eighth Congress, taking into account the observations mentioned in the previous paragraphs.

III. TECHNICAL CO-OPERATION

115. The Meeting reviewed in depth the needs of the region, the modalities available for technical co-operation and future possibilities. There was agreement that co-operation had to be expanded not only at the country level, but also at the regional and subregional levels. Bilateral and multilateral projects should be formulated and implemented with the assistance of the United Nations. Data base development with respect to needs and resources could be an important step in that direction. The establishment of a computerized information network would facilitate the exchange of information on projects and suitable experts.

116. It was recommended that international, regional and subregional co-operation should be strengthened. New ways and means of technical co-operation among developing countries should be explored and the possibility of regional projects considered with a view to improving existing arrangements for collaboration in criminal justice matters and meeting the challenge of transnational crime. There was also general agreement that regional seminars and advisory services were particularly important with respect to the implementation of international instruments.

117. The Interregional Adviser on Crime Prevention and Criminal Justice reported on the projects identified during his recent visits and on encouraging funding projects for technical co-operation activities. He emphasized the importance of close co-ordination between ESCAP and UNAFEI and of the necessity for expanded regional advisory services in different areas of priority.

118. The ESCAP Regional Adviser on Crime Prevention and Criminal Justice gave an account of his work. The position of Regional Adviser was established three years ago, with the support of the Government of Japan. Close contacts with several countries in the Asian and Pacific region had been established. Advisory services included the development of innovative strategies for the prevention of crime; methodologies for collecting and disseminating relevant data on crime and criminal justice; the formulation of more effective regional and national standards; and the training of personnel in criminal justice administration and in the conduct of research. Advisory services would also promote regional co-operation in the field of crime prevention and criminal justice by encouraging the mutual exchange of experiences, technical expertise and information. The Meeting considered the provision of interregional and regional advisory services, as well as the assistance furnished by UNAFEI, to be extremely useful and of great value to criminal justice administration.

119. The representative of UNDP stated that UNDP was aware that crime prevention and criminal justice policies must be taken into account in the development process and should be integrated into social development activities, urban development plans, youth projects and employment programmes. UNDP stood ready to respond to technical assistance requests within the context of national development efforts as well as at the intercountry level.

120. The Executive Secretary explained that official requests from ministers of interior and justice must be channelled through the appropriate national co-ordination machinery to UNDP. A brochure describing the services available from the United Nations was made available to the participants.

121. In conclusion, all representatives stressed the crucial importance of technical co-operation to reinforce the capacity of national administrations to fight transnational forms of criminality, urging Governments and relevant funding agencies to provide the resources required to raise the level of efficiency and enhance the performance of the various branches of the criminal justice system. They also agreed that the United Nations should assist in facilitating the exchange of experiences on successful crime prevention measures, formulating effective multilateral instruments and developing concrete projects.

IV. ADOPTION OF THE REPORT OF THE MEETING

122. At its final session the Meeting adopted the draft report introduced by the Rapporteur. It also unanimously adopted a draft resolution on the United Nations crime prevention and criminal justice programme, the text of which is contained in the recommendations at the beginning of the present report.

123. In a closing statement, the Secretary-General of the Eighth Congress referred to continuing budgetary constraints on the United Nations Office at Vienna and to the need for Governments to support the United Nations crime prevention and criminal justice programme as an important component of the development process. Closing statements were also made by the Chairman, the Representative of the Committee and the Executive Secretary of the Eighth Congress.

Notes

1/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

2/ See Seventh United Nations Congress ..., chap. I, sect. E.

3/ A/CONF.144/IPM.1.

4/ A/CONF.144/IPM.4.

5/ E/AC.57/1988/20.

6/ A/CONF.144/IPM.2.

7/ See Seventh United Nations Congress ..., chap. I, sect. C.

8/ A/CONF.144/IPM.3.

9/ See Seventh United Nations Congress ..., chap. I, sect. D.

10/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

11/ A/CONF.144/IPM.5.

Annex I

LIST OF PARTICIPANTS

Regional members of the Economic and Social Commission for Asia
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Gabriel Sanchez-Mazas, Adviser, World Health Organization

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Norio Nishimura, Chief, Training Division

Australian Institute of Criminology

Paul Wilson, Assistant Director

Intergovernmental organization

International Criminal Police Organization (Interpol)

Romeo Juntereal Sanga, Drugs Liaison Officer, South-East Asia

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Roster

Defence for Children International Movement

Santhasit Koomprapant, Director, Centre for Protection of Children's Rights

Other organizations

Asia Crime Prevention Foundation

Atsushi Nagashima, Director

Annex II

LIST OF DOCUMENTS

A. Basic documents

- A/CONF.144/PM.1 Discussion guide for the interregional and regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
- A/CONF.144/1PM.1-5 Reports of the interregional preparatory meetings for the Eighth United Nations Conference on the Prevention of Crime and the Treatment of Offenders
- E/AC.57/1988/20 Report of the Committee on Crime Prevention and Control on its tenth Session
- A/CONF.144/RPM/CRP/1 Draft Model Treaty on Mutual Assistance in Criminal Matters
- A/CONF.144/RPM/CRP/2 Draft Model Treaty on Extradition
- A/CONF.144/RPM/CRP/3 United Nations Draft Guidelines on Prosecution

B. Background documents

- A/RES/43/99 Crime prevention and criminal justice
- A/RES/43/153 Human rights in the administration of justice
- A/RES/43/173 Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment
- DPI/960 Safeguards guaranteeing protection of the rights of those facing the death penalty
- DPI/959 Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order
- DPI/958 Basic Principles on the Independence of the Judiciary
- DPI/957 Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners
- DPI/896 United Nations Standard Minimum Rules for the Administration of Juvenile Justice
- DPI/895 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

DPI/832 Standard Minimum Rules for the Treatment of Prisoners and
Procedures for the Effective Implementation of the Rules

DPI/665 Code of Conduct for Law Enforcement Officials

Standard Minimum Rules for the Implementation of Non-Custodial
Sanctions and Measures involving Restriction of Liberty

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Report of the Seventh United Nations Congress
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of Offenders

E/AC.57/1988/NGO/3

Statements submitted by non-governmental
organizations in consultative status with the
Economic and Social Council, category II