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### PRINCIPLES OF INTERNATIONAL CO-OPERATION IN THE DETECTION, ARREST, EXTRADITION AND PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES AND CRIMES AGAINST HUMANITY

#### Note by the Secretary-General

1. Immediately after the establishment of the Organization, the General Assembly turned its attention to questions relating to the punishment of war crimes and of persons guilty of crimes against humanity. These early resolutions <sup>1/</sup> include resolution 95 (I) of 11 December 1946, which affirmed the principles of international law recognized by the Charter of the Nürnberg International Military Tribunal and that tribunal's judgement and resolutions 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 concerning the extradition and punishment of war criminals.

2. Having taken into consideration the proposals of the Commission on Human Rights and a study by the Secretary-General (E/CN.4/906), the General Assembly, in resolution 2391 (XXIII) of 26 November 1968, adopted and opened for signature, ratification and accession the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. This Convention entered into force on 11 November 1970, and by 15 July 1973 20 States had ratified or acceded to it.

3. On the recommendation of the Economic and Social Council and having regard to the work of the Commission on Human Rights, the General Assembly continued to consider the question of the punishment of war criminals and of persons guilty of crimes against humanity at every session and adopted resolutions 2583 (XXIV), 2712 (XXV), 2840 (XXVI) and 3020 (XXVII). Within the context of this work the General Assembly took note of the general studies prepared by the Secretary-General

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\* A/9100.

<sup>1/</sup> For a more comprehensive list of the resolutions on the subject adopted during the first 10 years of the Organization, see E/CN.4/906, paras. 28-56.

(E/CN.4/983 and Add.1 and 2, A/8345) at its request or that of the Economic and Social Council, and based on information received from Governments of States Members of the United Nations or of specialized agencies. 2/

4. By resolution 2840 (XXVI) of 18 December 1971, the General Assembly requested the Commission on Human Rights to consider the principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity and to submit a report on that question to the General Assembly at its twenty-seventh session. The Economic and Social Council transmitted that request to the Commission on Human Rights.

5. By resolution 7 A (XXVIII) the Commission on Human Rights among other things decided to include in the agenda of its twenty-ninth session, as a priority item, the question of the consideration of principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. By resolution 7 B (XXVIII), the Commission requested the Secretary-General to submit to the General Assembly at its twenty-seventh session a note containing United Nations resolutions concerning the declaration of grave breaches of the fourth Geneva Convention of 12 August 1949 as "war crimes" and the relevant conclusions and recommendations of United Nations bodies and the International Committee of the Red Cross relating to grave breaches of the fourth Geneva Convention. On the recommendation of the Commission, the Economic and Social Council adopted resolution 1691 (LII), in which, among other things, it requested those States which had not yet done so to submit to the Secretary-General their comments on the question of the punishment of persons guilty of war crimes and crimes against humanity including proposals concerning principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. The Secretary-General was requested to submit to the General Assembly at its twenty-seventh session and to the Commission on Human Rights at its twenty-ninth session an analytical survey of the comments, observations and proposals received from States, having regard to the need to formulate principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity.

6. At its twenty-seventh session, the General Assembly had before it the analytical survey prepared by the Secretary-General in accordance with Council resolution 1691 (LII) (A/8823 and Add.1) and the note by the Secretary-General submitted pursuant to resolution 7 B (XXVII) of the Commission on Human Rights (A/8837). By resolution 3020 (XXVII) of 18 December 1972, the General Assembly took note of the draft principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity (A/C.3/L.1975 and Corr.1) submitted to the Third Committee by the representatives of the Byelorussian Soviet Socialist Republic, Czechoslovakia and Democratic Yemen. It decided to transmit the above-mentioned draft principles for

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2/ A/8038 and Add.1 and 2, and Add.1/Corr.1; E/CN.4/927 and Add.1-9; E/CN.4/1010 and Add.1; E/CN.4/1082.

further elaboration to the Commission on Human Rights, together with the records of the meetings at which the Third Committee debated that item during the session. The Commission on Human Rights was requested to submit to the General Assembly at its twenty-eighth session, through the Council, draft principles of international co-operation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity.

7. By resolution 13 (XXIX) the Commission on Human Rights endorsed the draft principles of international co-operation in that field and decided to consider at its thirty-first session the question of the punishment of war criminals and of persons who have committed crimes against humanity. By resolution 1791 (LIV), the Economic and Social Council, acting on the Commission's recommendation, endorsed the draft principles transmitted to it by the Commission and recommended that the General Assembly should adopt a draft resolution proclaiming the said draft principles. In order to facilitate the work of the General Assembly, the text of that draft resolution is annexed to this note.

Annex

Draft resolution submitted by the Economic and Social  
Council in resolution 1791 (LIV)

The General Assembly,

Recalling its resolutions 2583 (XXIV), 2712 (XXV), 2840 (XXVI) and  
3020 (XXVII),

Taking into account the special need for international action in order to  
ensure the prosecution and punishment of persons guilty of war crimes and crimes  
against humanity,

Having considered the draft principles of international co-operation in the  
detection, arrest, extradition and punishment of persons guilty of war crimes and  
crimes against humanity,

Declares that the United Nations,

In pursuance of the principles and purposes set forth in its Charter concerning  
the promotion of co-operation between peoples and the maintenance of international  
peace and security,

Proclaims the following principles of international co-operation in the  
detection, arrest, extradition and punishment of persons guilty of war crimes and  
crimes against humanity:

1. War crimes and crimes against humanity, whenever or wherever they are  
committed, shall be subject to investigation and the persons against whom there  
is evidence that they have committed such crimes shall be subject to tracing,  
arrest, trial and, if found guilty, to punishment.
2. States shall co-operate with each other on a bilateral and multilateral  
basis with a view to halting and preventing war crimes and crimes against humanity,  
and shall take the domestic and international measures necessary for that purpose.
3. States shall assist each other in detecting, arresting and bringing to  
trial persons suspected of having committed such crimes and, if they are found  
guilty, in punishing them.
4. Persons against whom there is evidence that they have committed war crimes  
and crimes against humanity shall be subject to trial and, if found guilty, to  
punishment, as a general rule in the countries in which they committed those crimes.  
In that connexion, States shall co-operate on questions of extraditing such persons.
5. States shall co-operate with each other in the collection of information  
and evidence which would help to bring to trial the persons indicated in  
paragraph 4, and shall exchange such information.

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6. In accordance with article 1 of the Declaration on Territorial Asylum of 14 December 1967, States shall not grant asylum to any person with respect to whom there are serious reasons for considering that he has committed a crime against peace, a war crime or a crime against humanity.

7. States shall not take any legislative or other measures which may be prejudicial to the international obligations they have assumed in regard to the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity.

8. In co-operating with a view to the detection, arrest and extradition of persons against whom there is evidence that they have committed war crimes and crimes against humanity and, if found guilty, their punishment, States shall act in conformity with the provisions of the Charter of the United Nations and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

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