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SUMMARY RECORD OF THE 51st MEETING

Chairman: Ms. COOMBS (New Zealand)

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The meeting was called to order at 3.40 p.m.

AGENDA ITEM 93: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS
(continued) (A/C.3/45/L.57 and L.66)

Draft resolution A/C.3/45/L.57

1. Mr. ERDENECHULUUN (Mongolia), introducing draft resolution A/C.3/45/L.57 on behalf of the sponsors, who had been joined by Mali and Nigeria, said that solving global environmental problems required an increasing role by the United Nations and concerted efforts by the international community. The sponsors believed that the draft resolution would serve as an important contribution to the United Nations Conference on Environment and Development. In paragraph 3, the words "through the Economic and Social Council" should be inserted after the words "with a view to submitting". He hoped that the draft resolution would gain the widest possible support in the Committee.

Draft resolution A/C.3/45/L.66

2. Mr. GOMPERTZ (France), introducing draft resolution A/C.3/45/L.66 on behalf of the sponsors, said that it was designed to assist Governments and all the organizations concerned in defining their conduct in the delicate area of computer storage of personal data, and to provide proper protection for the private lives and rights of individuals from possible abuse. The draft resolution was not binding but was intended simply to provide guidelines in a complex area. Concerning principle 5 on non-discrimination, which prohibited the compilation of data likely to give rise to unlawful or arbitrary discrimination, he pointed out that that principle did not prevent a political party or a trade union from counting its members or a press organ from keeping a record of its readers. In any case, principle 6 provided for certain limited exceptions. He hoped that the draft resolution would be adopted by consensus.

AGENDA ITEM 100: CRIME PREVENTION AND CRIMINAL JUSTICE (continued) (A/CONF.144/28, chap. I, sect. A; A/C.3/45/L.23, L.29/Rev.1, L.30, L.33, L.36, L.37 and Add.1, L.46)

Draft resolutions 1-13 contained in the report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/28, chap. I, sect. A)

Draft resolution 1

3. Ms. OJAMAA (United States of America) said that in a spirit of compromise, her delegation had decided to withdraw its amendment to draft resolution 1 as contained in paragraph 1 of document A/C.3/45/L.46, on the understanding that the whole question of the functioning and programme of work of the United Nations in the area of crime prevention and criminal justice would be considered at the ministerial meeting to be held in 1991, which would consider the intergovernmental working group's report prepared pursuant to draft resolution 2.

4. The CHAIRMAN said that that understanding would be reflected in the Committee's report to the plenary.

5. Draft resolution 1 was adopted without a vote.

Draft resolution 2

6. Draft resolution 2 was adopted without a vote.

Draft resolution 3

7. Draft resolution 3 was adopted without a vote.

Draft resolution 4

8. Draft resolution 4 was adopted without a vote.

Draft resolution 5

9. The CHAIRMAN said that the United States delegation had proposed an amendment to paragraph 5 of the annex, whereby the words "and, where the State concerned is a party" would be inserted after the words "Universal Declaration of Human Rights".

10. Draft resolution 5, as orally amended, was adopted without a vote.

Draft resolution 6

11. Draft resolution 6 was adopted without a vote.

Draft resolution 7

12. The CHAIRMAN said that the United States delegation had proposed that in paragraph 13 of the annex, the words "such as social security rights and benefits, freedom of association and, upon reaching the minimum age established by law, the right to marry" should be deleted.

13. Draft resolution 7, as orally amended, was adopted without a vote.

Draft resolution 8

14. Draft resolution 8 was adopted without a vote.

Draft resolution 9

15. Draft resolution 9 was adopted without a vote.

Draft resolution 10

16. Ms. OJAMAA (United States of America) said that in a spirit of compromise, her

(Ms. Ojamaa, United States)

delegation had decided to withdraw its amendment to draft resolution 10 as contained in paragraph 4 of document A/C.3/45/L.46.

17. Draft resolution 10 was adopted without a vote.

18. Mr. KHODAKOV (Union of Soviet Socialist Republics) said that his delegation had joined in the consensus on draft resolution 10 in order to permit its adoption. However, it had reservations concerning article 3 and reserved the right to make a detailed statement when the resolution came before the plenary.

Draft resolution 11

19. Draft resolution 11 was adopted without a vote.

Draft resolution 12

20. Draft resolution 12 was adopted without a vote.

Draft resolution 13

21. Draft resolution 13 was adopted without a vote.

22. Ms. OJAMAA (United States of America), explaining her delegation's position on the draft resolutions just adopted, said that it would have preferred the deletion of paragraphs 22, 23 and 24 of the annex to draft resolution 1 because they made sweeping statements about the future role, structure and resources of the Crime Prevention and Criminal Justice branch and the Committee on Crime Prevention and Control. In a spirit of compromise, however, her Government had decided to accept those paragraphs on the understanding that they would not prejudice the conclusions to be reached by the intergovernmental working group to be established under draft resolution 2.

23. Her delegation had been pleased to join in the consensus on draft resolution 2 and hoped to participate in the work of the proposed intergovernmental working group. That work was of vital importance and her country intended to make an active contribution to it. The United States had also joined in the consensus on draft resolution 4, but wished to point out with respect to paragraph 3.7 of the annex that appropriate machinery should be available for submitting complaints and for redress of grievances in general, because the phrase "internationally recognized human rights" might be interpreted differently by different Member States. Turning to draft resolution 7, her delegation stressed with regard to paragraph 2 of the annex that the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice were only recommendatory in nature.

24. Although her delegation had joined in the consensus on draft resolution 8, it had reservations about the wisdom of drafting another international instrument, as was apparently contemplated under paragraph 5. The seemingly endless proliferation

(Ms. Ojamaa, United States)

of new instruments should at least slow down appreciably or cease for a period of time. The United Nations should concentrate on implementing existing standards rather than formulating new ones. If another drafting exercise was undertaken pursuant to the draft resolution, Governments should be able to participate directly in the drafting process and submit written comments at the invitation of the Secretary-General.

25. Lastly, with regard to draft resolutions 10 and 11, her Government strongly supported the negotiation and effective implementation of extradition and mutual legal assistance treaties in general. Although it might take a different approach from that followed by the model treaties on certain issues, the United States viewed the adoption of those treaties as very encouraging support by the United Nations for significantly increasing the number of extradition and mutual legal assistance treaties in force throughout the world.

26. Ms. MEHTA (India) said that although her delegation had joined in the consensus on draft resolutions 10 to 13, it wished to reserve its position on the implementation of those draft resolutions in conformity with its national legislation.

Draft resolution A/C.3/45/L.23

27. Mr. FONTAINE ORTIZ (Cuba) expressed his country's appreciation to the delegation of Italy for submitting the draft resolution under consideration.

28. Ms. OJAMAA (United States of America) said that since her country had not participated in the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, it would refrain from taking part in the Committee's action on draft resolution A/C.3/45/L.23.

29. Draft resolution A/C.3/45/L.23 was adopted without a vote.

Draft resolution A/C.3/45/L.29/Rev.1

30. The CHAIRMAN drew the Committee's attention to the statements on the programme budget implications of draft resolution A/C.3/45/L.29/Rev.1 contained in documents A/C.3/45/L.37 and Add.1.

31. Mr. FONTAINE ORTIZ (Cuba), introducing draft resolution A/C.3/45/L.29/Rev.1 on behalf of Italy and his own delegation, expressed appreciation to the delegations that had taken part in the informal consultations for their spirit of co-operation and flexibility. He briefly reviewed the contents of the draft resolution and explained the amendments made to the text. The question of the administrative, programme and financial implications had been a constant concern of the delegations that had taken part in the informal consultations. It was the understanding of those delegations and the Secretariat that the amendments to draft resolution A/C.3/45/L.29, particularly to paragraphs 3, 10, 11 and 12, which appeared as paragraphs 3, 11, 12 and 13 in the revised text, did not affect the administrative,

(Mr. Fontaine Ortiz, Cuba)

programme and budget implications envisaged by the Secretariat in documents A/C.3/45/L.36 and L.37. Furthermore, those amendments did not restrict action to be taken by the Secretary-General pursuant to the resolutions and recommendations of the Eighth Congress, as indicated in document A/C.3/45/L.37/Add.1. That understanding also applied to draft resolution 1 of the Eighth Congress.

32. Draft resolution A/C.3/45/L.29/Rev.1 was adopted without a vote.

33. Ms. OJAMAA (United States of America) said that her delegation had been able to join in the consensus on draft resolution A/C.3/45/L.29/Rev.1 and appreciated the spirit of compromise on the part of the sponsors which had made its adoption possible. In addition to the 13 draft resolutions just adopted by the Committee, the Eighth Congress had adopted more than 30 other resolutions and instruments, covering a wide range of subjects and varying widely in importance and quality. Since they were not before the General Assembly for consideration, her delegation supported the wording of paragraph 3 of draft resolution A/C.3/45/L.29/Rev.1 and endorsed the priority given to the economic, social, legal, cultural and political circumstances of each country in terms of the weight to be given to instruments and resolutions adopted by United Nations crime congresses in general.

34. Her Government nevertheless had reservations with regard to the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property. The United States generally found unacceptable any treaty for enforcing the export control laws of another country. There was a need to improve the overall preparatory and drafting process for instruments submitted to United Nations crime congresses for consideration. That topic should be addressed by the future intergovernmental working group for improving the effectiveness of the Organization's crime prevention and criminal justice programme.

35. The points relating to General Assembly resolution 41/120 raised in the twelfth and thirteenth preambular paragraphs should have been included in the operative part of the draft resolution. The guidelines set forth in resolution 41/120 had not been followed with respect to several of the international instruments adopted or recommended by the Eighth Congress. The extent to which Governments had had the opportunity to submit written comments and participate in the elaboration of those instruments had varied dramatically. A more systematic approach to the preparation of draft instruments relating to crime should be instituted during the reform process. A moratorium on further standard-setting would be preferable in order to slow down the proliferation of instruments and concentrate on existing standards.

36. It had not been possible to achieve consensus on two points, which her delegation would pursue elsewhere. The Secretary-General should inform the General Assembly of his current criteria for determining what items should be published in official United Nations compilations of international instruments. Furthermore, a final review or quality control evaluation should be conducted before the General Assembly adopted draft instruments, especially those prepared by subsidiary

(Ms. Ojamaa, United States)

bodies. Such a process could include a technical analysis by the Secretariat, a review of a draft instrument by the Sixth Committee to ensure consistency with existing international law, or an opportunity for Governments to submit written comments. A detailed comparative analysis of the draft instruments concerning imprisonment or detention and existing international instruments should have been made in order to avoid inconsistencies and redundancy.

Draft resolution A/C.3/45/L.30

37. The CHAIRMAN said that Barbados had become a sponsor of the draft resolution.

Draft resolution A/C.3/45/L.30 was adopted without a vote.

38. Mr. RAVEN (United Kingdom) said that his delegation had joined in the consensus on draft resolution A/C.3/45/L.30, although it had certain reservations since the text duplicated some existing resolutions and procedures in the area of crime. The operative provisions of the draft resolution were vague and gave little indication of expected results or the means for assessing them. Furthermore, the draft resolution was somewhat at variance with draft resolution 2 adopted at the Eighth Congress. His delegation did not feel that draft resolution A/C.3/45/L.30 should be given exceptionally high priority and hoped that resources for implementing the draft resolution would not be diverted from other programmes.

Draft resolution A/C.3/45/L.33

39. The CHAIRMAN said that Romania and Turkey had become sponsors of the draft resolution.

Draft resolution A/C.3/45/L.30 was adopted without a vote.

40. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 100.

AGENDA ITEM 94: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/C.3/45/L.26, L.28, L.32, L.35, L.42)

Draft resolution A/C.3/45/L.26

41. The CHAIRMAN said that Benin, Guinea, Guyana, Mali, Peru and Yemen had become sponsors of the draft resolution. A recorded vote had been requested on the draft resolution.

42. Mr. STUART (Australia), speaking in explanation of vote before the vote, said that in recent years the relevant General Assembly resolutions had moved away from the compromise language which had enabled his delegation and several others to vote in favour of them. Having noted some improvements in the draft text and hoping to find common ground, his delegation had made several proposals to the lead sponsor.

(Mr. Stuart, Australia)

Unfortunately, the sponsors had not been willing at that stage to accept the proposed changes. His delegation welcomed the spirit in which its proposals had been discussed, but regretted that they had not been accepted.

43. When the Declaration on the Right to Development had been adopted, the Australian Government and many others had been able to support it because it attempted to strike a balance between the individual and collective elements of human development. Some of the provisions of draft resolution A/C.3/45/L.26 gave the impression that the Declaration dealt more with the supposed rights of Governments and States. His Government believed that the essence of human rights was the welfare and freedom of human beings who, in many cases, required protection against the excesses and arbitrary actions of the State and its agents. Accordingly, Australia would abstain in the vote on the draft resolution. It nevertheless hoped that at future sessions the sponsors would be open to proposals that would resolve the issue satisfactorily.

44. Mr. MEZZALAMA (Italy), speaking in explanation of vote on behalf of the 12 States members of the European Community, said that the Twelve would abstain in the vote on the draft resolution. They attached great importance to promoting human rights and fundamental freedoms and understood the economic difficulties of the developing countries, but they disagreed with the tenth preambular paragraph. They deplored the distortion of the concept of human rights through the emphasis placed on a collective approach, and also the confusion of those rights with other categories of rights. They disagreed that human rights could not be implemented until certain pre-conditions were met, and regretted the fact that the draft resolution did not reflect the concept that all violations of human rights were of concern to the international community.

45. A recorded vote was taken on draft resolution A/C.3/45/L.26.

In favour: Afghanistan, Algeria, Angola, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Ecuador, Egypt, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against: United States of America.

Abstaining: Australia, Austria, Belgium, Bulgaria, Canada, Czechoslovakia, Denmark, El Salvador*, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Swazi'land, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland.

46. Draft resolution A/C.3/45/L.26 was adopted by 104 votes to 1, with 31 abstentions.

47. Ms. SAINT MALO (Panama), speaking in explanation of vote, said that her delegation had voted for the draft resolution because it reflected her country's position on the need for uniform protection of human rights. She also wished to point out that human rights in Cuba must be considered on the same basis as human rights in other countries. A Cuban human rights committee had submitted human rights petitions to her Government, which had forwarded them to the Secretary-General.

48. Mr. MORA (Cuba), speaking on a point of order, said that the question of human rights in Cuba was already under consideration in another body and that the representative of Panama should confine her remarks to explaining her delegation's vote on the draft resolution.

49. Mr. ALFARO-PINEDA (El Salvador) said that his delegation had intended to vote in favour of the draft resolution and had abstained by mistake. It therefore requested its vote changed.

50. Ms. CRAIG (New Zealand) said that her delegation had voted for the draft resolution because it favoured the promotion of human rights and fundamental freedoms and understood the importance of development in that connection. It would, however, have preferred the version proposed by the Australian delegation. It had reservations concerning paragraph 11, which it felt was premature, but welcomed operative paragraph 10. It was encouraged by the General Assembly's efforts to promote international economic co-operation, and especially to revitalize growth in developing countries.

51. Mr. KHODAKOV (Union of Soviet Socialist Republics) said that his delegation had voted for the draft resolution. Many elements in it deserved support, but others should be updated to reflect new trends in human rights co-operation. He hoped that future resolutions on the subject would be adopted by consensus.

52. Ms. TERANISHI (Japan) said that her delegation had abstained because it could not accept paragraphs 5, 6 and 10 of the resolution, which introduced extraneous

* See para. 49 below.

(Ms. Teranishi, Japan)

elements. Economic development and international security were important to human rights, but they were not a prerequisite. Her delegation had reservations about the concept of the right to development as mentioned in paragraphs 5 and 6.

Draft resolution A/C.3/45/L.28

53. The CHAIRMAN announced that Guatemala, Jamaica, Lesotho, Peru, Vanuatu and Zimbabwe had become sponsors of the draft resolution.

54. Ms. KAMAL (Secretary of the Committee) said that the resolution had been orally amended. In paragraph 1, the words "with interest" should be inserted after the words "Takes note". In paragraph 3, the words "setting up" should be deleted. In paragraph 4, the words "of the Secretariat" and "and enhance" should be deleted. In paragraph 6, the words "and monitoring" should be deleted.

55. Draft resolution A/C.3/45/L.28 as orally amended, was adopted without a vote.

56. Ms. OJAMAA (United States of America), speaking in explanation of vote, said that democracy was essential to economic and social development but that the logic of the argument concerning the right to development was flawed. Her delegation therefore dissociated itself from the concepts contained in the draft resolution.

57. Mr. GROLIG (Germany) said that the draft resolution contained ambiguities and required discussion. The right to development could not be considered an internationally binding right

58. Ms. TERANISHI (Japan) said that her delegation had joined in the consensus on the resolution but had not changed its position that the concept of the right to development was different from the concept of human rights.

Draft resolution A/C.3/45/L.32

59. Mr. MORA (Cuba) said that his delegation had submitted amendments to draft resolution A/C.3/45/L.32, which were contained in document A/C.3/45/L.42, because it could not accept any weakening of the right of peoples to complete sovereignty over their natural resources. The Secretary-General should have taken General Assembly resolution 43/124 into account instead of considering only the comments of certain States. In a spirit of flexibility, his delegation would be prepared to agree to the adoption of the draft resolution without a vote, but hoped that the Committee would, in addition, adopt the following draft decision, in which case it would withdraw its amendments:

"The General Assembly,

"Recalling its resolution 43/124 of 8 December 1988,

(Mr. Mora - Cuba)

"Requests the Secretary-General to seek the views of Member States on its resolution 43/124 regarding the impact of property on the enjoyment of human rights and fundamental freedoms, and to report to the General Assembly at its forty-seventh session."

60. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee decided to adopt the draft decision proposed by the delegation of Cuba.

61. It was so decided.

62. The CHAIRMAN said that the amendments in document A/C.3/45/L.42 were withdrawn.

63. Ms. KAMAL (Secretary of the Committee) said that draft resolution A/C.3/45/L.32 had been orally amended. In paragraph 3, the words "consistent with national policies" should be added after the words "at the national level".

64. Draft resolution A/C.3/45/L.32, as orally amended, was adopted without a vote.

Draft resolution A/C.3/45/L.35

65. The CHAIRMAN announced that Bolivia, Costa Rica, Germany, Greece, Guatemala, Romania, Samoa and the United Kingdom had become sponsors of the draft resolution.

66. Draft resolution A/C.3/45/L.35 was adopted without a vote.

67. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 94.

The meeting rose at 5.25 p.m.