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### DRAFT CODE OF OFFENCES AGAINST THE PEACE AND SECURITY OF MANKIND

#### Report of the Sixth Committee

Rapporteur: Miss Salwa Gabriel BERBERI (Sudan)

#### I. INTRODUCTION

1. The item entitled "Draft Code of Offences against the Peace and Security of Mankind: report of the Secretary-General" was included in the provisional agenda of the thirty-sixth session of the General Assembly pursuant to paragraph 5 of General Assembly resolution 36/106 of 10 December 1981.
2. On the recommendation of the General Committee, the General Assembly decided at its 4th plenary meeting, on 24 September 1982, to include the item in its agenda and to allocate it to the Sixth Committee.
3. In connection with the item, the Sixth Committee had before it the report of the International Law Commission on the work of its thirty-fourth session <sup>1/</sup> (paras. 8, 252-256 and 263) and the report of the Secretary-General (A/37/325), submitted pursuant to paragraph 3 of resolution 36/106, containing comments and observations submitted by Member States under the same paragraph.
4. The Sixth Committee considered the item at its 52nd to 55th, 63rd and 64th meetings, on 22 to 25 November and 6 and 7 December 1982. The summary records of these meetings, (A/C.6/37/SR.52-55, 63 and 64) contain the views of representatives who spoke during the consideration of the item.

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<sup>1/</sup> Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 10 (A/37/10).

## II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/37/L.26

5. At the 63rd meeting, on 6 December, the representative of Zaire introduced a draft resolution (A/C.6/37/L.26) sponsored by Afghanistan, Algeria, the Congo, Cuba, Cyprus, Egypt, the German Democratic Republic, Liberia, Mali, Mongolia, Morocco, Nigeria, the Philippines, Rwanda, Sierra Leone, the Sudan, Thailand, Togo, Tunisia, the Ukrainian Soviet Socialist Republic and Zaire, later joined by Ghana, the Niger, the Syrian Arab Republic and Mozambique.

6. At its 64th meeting, on 7 December, the Committee voted on draft resolution A/C.6/37/L.26 as follows:

(a) Operative paragraph 4 was adopted by 72 votes to 13, with 13 abstentions;

(b) The draft resolution as a whole was adopted by 82 votes to none, with 17 abstentions (see para. 9).

7. Statements in explanation of vote were made by the representatives of Norway (on behalf of Denmark, Finland, Iceland, Norway and Sweden), the United States of America, the United Kingdom of Great Britain and Northern Ireland, France, Japan and Australia.

8. Two representatives stated that, had they been present during the voting, they would have voted in favour of operative paragraph 4 and also in favour of the draft resolution as a whole.

## III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

### Draft Code of Offences against the Peace and Security of Mankind

The General Assembly,

Mindful of Article 13, paragraph 1 a, of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Recalling its resolution 177 (II) of 21 November 1947, by which it directed the International Law Commission to prepare a draft code of offences against the peace and security of mankind,

Having considered the draft Code of Offences against the Peace and Security of Mankind prepared by the International Law Commission and submitted to the General Assembly in 1954, 2/

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2/ Ibid., Ninth Session, Supplement No. 9 (A/2693), para. 54.

Recalling its belief that the elaboration of a code of offences against the peace and security of mankind could contribute to strengthening international peace and security and thus to promoting and implementing the purposes and principles set forth in the Charter of the United Nations,

Recalling its resolution 36/106 of 10 December 1981, in which it invited the International Law Commission to resume its work with a view to elaborating the draft Code and to examine it with the required priority in order to review it, taking into account the results achieved by the process of the progressive development of international law,

Taking into account the views expressed during the debate of this item at the current session,

Noting with satisfaction the appointment of a special rapporteur for the draft Code,

Taking into account the importance and the urgency of the subject,

1. Invites the International Law Commission to continue its work with a view to elaborating the draft Code of Offences against the Peace and Security of Mankind, in conformity with paragraph 1 of General Assembly resolution 36/106, and taking into account the decision contained in paragraph 255 of the report of the International Law Commission on the work of its thirty-fourth session; 3/

2. Requests the International Law Commission, in conformity with resolution 36/106, to submit a preliminary report to the General Assembly at its thirty-eighth session bearing, inter alia, on the scope and the structure of the draft Code;

3. Requests the Secretary-General to reiterate his invitation to Member States and relevant international intergovernmental organizations to present or update their comments and observations on the draft Code with a view to their submission to the International Law Commission;

4. Decides to include in the provisional agenda of its thirty-eighth session the item entitled "Draft Code of Offences against the Peace and Security of Mankind".

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3/ Ibid., Thirty-seventh Session, Supplement No. 10 (A/37/10).