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Agenda item 130

DRAFT CODE OF CRIMES AGAINST THE PEACE AND SECURITY OF MANKIND

Report of the Sixth Committee

Rapporteur: Mr. Carlos VELASCO MENDIOLA (Peru)

I. INTRODUCTION

1. The item entitled "Draft Code of Crimes against the Peace and Security of Mankind" was included in the provisional agenda of the forty-third session of the General Assembly pursuant to paragraph 5 of Assembly resolution 42/151 of 7 December 1987, to be considered in conjunction with the examination of the report of the International Law Commission.

2. At its 3rd plenary meeting, on 23 September 1988, the General Assembly, on the recommendation of the General Committee, decided 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 following documents:

(a) Report of the International Law Commission on the work of its fortieth session 1/ (paras. 192-280);

(b) Report of the Secretary-General (A/43/525 and Add.1) submitted pursuant to paragraph 4 of resolution 42/151, containing the views submitted by Member States under paragraph 3 of the resolution;

1/ Official Records of the General Assembly, Forty-third Session, Supplement No. 10 (A/43/10).

(c) Letters dated 19 and 29 September and 24 October 1988 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/43/621-S/20195, A/43/666-S/20211, A/43/744-S/20238);

(d) Letter dated 6 October 1988 from the Permanent Representative of Zimbabwe to the United Nations addressed to the Secretary-General (A/43/709);

(e) Letter dated 14 October 1988 from the Permanent Representative of the Lao People's Democratic Republic to the United Nations addressed to the Secretary-General (A/43/716-S/20231).

4. The Sixth Committee considered the item at its 25th to 40th and 48th meetings, held between 31 October and 11 November and on 25 November 1988. The summary records of those meetings (A/C.6/43/SR.25-40 and 48) contain the views of representatives who spoke during the consideration of the item.

## II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/43/L.21

5. At the 48th meeting, on 25 November 1988, the representative of Egypt introduced a draft resolution (A/C.6/43/L.21) sponsored by Algeria, Angola, Bulgaria, Burundi, Cameroon, Chad, Cuba, Cyprus, Czechoslovakia, Egypt, Ethiopia, the German Democratic Republic, Kenya, Mali, Mongolia, the Philippines, Poland, Qatar, Romania, Rwanda, Senegal, Tunisia and Viet Nam, later joined by the Sudan.

6. At the same meeting, the Committee adopted draft resolution A/C.6/43/L.21 by 104 votes to 5, with 13 abstentions (see para. 8).

7. Statements in explanation of vote were made by the representatives of the United States of America, Japan, Israel, Norway (on behalf of the Nordic countries) and the Federal Republic of Germany.

## III. RECOMMENDATION OF THE SIXTH COMMITTEE

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

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

#### The General Assembly,

Mindful of Article 13, paragraph I 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/

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,

Recalling also 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,

Bearing in mind that the International Law Commission should fulfil its task on the basis of early elaboration of draft articles thereof,

Having considered chapter IV of the report of the International Law Commission on the work of its fortieth session, 3/

Taking note of the report of the Secretary-General on the subject, 4/

Taking into account the views expressed during the debate on this item at the forty-third session,

Recognizing the importance and urgency of the subject,

1. Invites the International Law Commission to continue its work on the elaboration of the draft Code of Crimes against the Peace and Security of Mankind including the elaboration of a list of crimes, taking into account the progress made at its fortieth session, 3/ as well as the views expressed during the forty-third session of the General Assembly;

2. Takes note of the approach currently envisaged by the International Law Commission in dealing with the judicial authority to be assigned for the implementation of the provisions of the draft Code, and encourages the Commission to explore further all possible alternatives on the question;

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2/ Official Records of the General Assembly, Ninth Session, Supplement No. 9 (A/2693), para. 54.

3/ Ibid., Forty-third Session, Supplement No. 10 (A/43/10).

4/ A/43/525 and Add.1.

3. Requests the Secretary-General to continue to seek the views of Member States regarding the conclusions contained in paragraph 69 (c) (i) of the Commission's report on the work of its thirty-fifth session; 5/

4. Further requests the Secretary-General to include the views received from Member States in accordance with paragraph 3 above in a report to be submitted to the General Assembly at its forty-fourth session;

5. Decides to include in the provisional agenda of its forty-fourth session the item entitled "Draft Code of Crimes against the Peace and Security of Mankind", to be considered in conjunction with the examination of the report of the International Law Commission.

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5/ Official Records of the General Assembly, Thirty-eighth Session, Supplement No. 10 (A/38/10).