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**REQUEST FOR THE INCLUSION OF A SUPPLEMENTARY ITEM IN THE AGENDA  
OF THE FORTY-FOURTH SESSION**

**INTERNATIONAL CRIMINAL RESPONSIBILITY OF INDIVIDUALS AND  
ENTITIES ENGAGED IN ILLICIT TRAFFICKING IN NARCOTIC DRUGS  
AND ACROSS NATIONAL FRONTIERS AND OTHER TRANSNATIONAL  
CRIMINAL ACTIVITIES; ESTABLISHMENT OF AN INTERNATIONAL  
CRIMINAL COURT WITH JURISDICTION OVER SUCH CRIMES**

Letter dated 21 August 1989 from the Permanent Representative  
of Trinidad and Tobago to the United Nations addressed to the  
Secretary-General

I have the honour to request, on behalf of the Government of Trinidad and Tobago, in accordance with rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the forty-fourth session of the General Assembly of a supplementary item entitled "International criminal responsibility of individuals and entities engaged in illicit trafficking in narcotic drugs across national frontiers and other transnational criminal activities: establishment of an international criminal court with jurisdiction over such crimes".

An explanatory memorandum is annexed in accordance with rule 20 of the rules of procedure of the General Assembly.

(Signed) Marjorie R. THORPE  
Permanent Representative

ANNEX

Explanatory memorandum

The desirability and feasibility of an international criminal court to deal with international criminal offences was the subject of much discussion even before the establishment of the Nuremberg International Military Tribunal on 8 August 1946. It was envisaged then that the jurisdiction of an international criminal court would cover individuals charged with violations of certain rules of international law such as genocide. Such a proposal was formalised in 1951 and revised in 1954 by the Committee on International Criminal Jurisdiction, established pursuant to General Assembly resolutions 489 (V) of 12 December 1950 and 687 (VII) of 5 December 1952. The Assembly, however, in resolution 898 (IX) of 14 December 1954, decided to postpone consideration of the proposals contained in the 1953 report until it had taken up the report of the Special Committee on the question of defining aggression together with the draft Code of Offences against the Peace and Security of Mankind.

In 1968 the General Committee of the General Assembly decided that the items "International criminal jurisdiction" and "Draft Code of Offences against the Peace and Security of Mankind" should be included in the agenda only after progress had been made in arriving at a generally agreed definition of aggression. However, since 1974 when the Definition of Aggression was approved by the General Assembly in its resolution 3314 (XXIX) of 14 December 1974, no action has been taken by the Assembly on the question of international criminal jurisdiction. The question, nevertheless, has been considered by the Sixth Committee and the International Law Commission in the context of their work on the draft Code of Offences against the Peace and Security of Mankind.

One of the more urgent contemporary bases for reconsidering the question of international criminal jurisdiction is the illicit traffic in narcotic drugs, which threatens to engulf small States and afflicts even the super Powers. On 19 December 1988, in response to this international scourge, the international community finalised its work on the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

This Convention recognized, inter alia, that illicit traffic in narcotic drugs and psychotropic substances was an international criminal activity, the suppression of which demanded urgent attention and the highest priority. The Convention also recognized the importance of strengthening and enhancing effective legal means for international co-operation in criminal matters and for suppressing the international criminal activities of illicit traffic in narcotic drugs. The Convention, however, does not provide international mechanisms for prosecuting and punishing offenders who command the means to evade the jurisdiction of domestic courts. It has been stated, with some justification, that "to condemn crimes for which there is no court is to mock justice and encourage criminality". Moreover, domestic criminal legislation and national legal institutions have not proved adequate in deterring the actions of international criminals, including those engaged in the illicit traffic of narcotic drugs. Furthermore, the possibility

exists that in the absence of an impartial tribunal with internationally recognized investigative mechanisms, the rights of individuals may be infringed and/or compromised.

The establishment of an international criminal court with jurisdiction to prosecute and punish individuals and entities who engage in, inter alia, the illicit trafficking in narcotic drugs across national borders would serve to bolster the legal process whereby such offenders are prosecuted and punished and would also contribute substantially to the progressive development and codification of international law.

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