

ANNEX A: AFRICAN COMMON POSITION ON CRIME PREVENTION AND CRIMINAL JUSTICE

(The original formatting has been adjusted and annexes removed to conserve space.)

I. INTRODUCTION

Crime has been identified as one of the major obstacles to development. Imbalanced or inadequately planned development contributes to criminality and thereby constitutes a threat to good quality of life, security of life and property, democracy, good governance, the rule of law and the free exercise of human rights. The United Nations General Assembly has decided that the Substantive agenda items and the Workshop themes for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice be focused upon by the Heads of State or Government or Government Ministers at the High-level Segment to be held during the last three days of the Congress, at which a Single Declaration containing recommendations derived from the deliberations at that Segment, the Round Tables and the Workshops should be adopted and submitted to the United Nations Commission on Crime Prevention and Criminal Justice.

The African Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, held in Addis Ababa, 1-3 March 2004, considered the Substantive agenda items and the Workshop themes. It was recommended that, bearing in mind that effective crime prevention strategies depended on the establishment and promotion of crime prevention and criminal justice projects, through various means, including by raising public awareness, both States and regional bodies should engage in efforts designed to improve public awareness about the dangers of organized crime, including trafficking in persons and firearms, smuggling of migrants, terrorism, drug trafficking, theft of cultural property, economic and financial crimes, money-laundering, computer-related crime, as well as the disruptive effect of retributive justice, in contrast to restorative justice, which emphasizes restoration of social cohesion through mediation and reconciliation of the parties. The meeting also recommended the adoption of the Charter of Fundamental Rights of Prisoners. It also exhorted Member States, who have not done so, to accede to the various Conventions and Protocols, both international and regional.

The African Regional Preparatory Meeting and the Auxiliary Seminar on the Implementation of the United Nations Convention on Transnational Organized Crime (the Organized Crime Convention) and its three Protocols on Trafficking in Persons, Smuggling of Migrants and Trafficking in Firearms, also held in Addis Ababa, 4-5 March 2004, decided that Africa should prepare a Common Position on each of the Substantive items and Workshop themes. It requested “the African Union to identify and coordinate issues pertinent to Africa and lead with an African Common Position on Crime Prevention and Criminal Justice, and present them to the Eleventh Congress on Crime Prevention and Criminal Justice, holding in Bangkok, Thailand, in April 2005.”

After the adoption of the Common Position by the Second African Union Ministerial Conference on Drug Control in Africa, it would be submitted for the consideration, respectively, of the Sixth Ordinary Session of the Executive Council and the Fourth Ordinary Session of the Assembly, to be held in January 2005. The Common Position would thereafter be utilized by African delegates as guidelines for their contributions to the deliberations and decisions at the Eleventh United Nations Congress, bearing in mind African realities and interests in the field of crime prevention and criminal justice.

II. PREAMBLE

We, the Ministers responsible for Drug Control and Crime Prevention in Africa, meeting at the Second African Union Ministerial Conference on Drug Control in Mauritius, 14-17 December 2004:

1. Deeply concerned that crime and armed conflicts generally constitute major obstacles to development, good quality of life, security of life and property, as well as democracy, proper management of public affairs, the rule of law and full enjoyment of human rights;
2. Aware that poverty is one of the core causes of crime, and that it is widespread in Africa with consequential impact on development and the empowerment of groups, families and individuals in the countries of the Member States of the African Union;
3. Recognizing that transnational organized crime, including drug trafficking, human and firearms trafficking, and smuggling of migrants, terrorism, corruption, economic and financial crimes, including money-laundering, and cyber crime, severely hamper sustainable socio-economic developments, perpetuate inequity, lowers productivity, reduces efficiency and effectiveness, and undermines the integrity of the social, economic, cultural and political order;
4. Concerned about the negative effects of corruption and punitive effects on the political, economic, social and cultural stability of African States, its undermining of accountability and transparency in the management of public affairs and its devastating effects on the economic and social development of the African peoples;
5. Inspired by the various African Union and United Nations Conventions and Protocols (listed in Annex A) and Codes of Conduct, Declarations, Decisions, Recommendations, Plans of Action, Programmes of Action, Standard Minimum Rules, Principles, Guidelines, Safeguards, Procedures, Model Agreements and Regimes (listed in Annex B) in the field of crime prevention and criminal justice, have deliberated extensively on the issues and problems concerning crime prevention and criminal justice, in order to overcome the negative impact and deleterious effect of crime in our various communities;
6. Taking Note of the General Assembly resolution 56/119 of 19 December 2001, which, in its paragraph 2(h) and (i), enjoined each of the United Nations Congresses on Crime Prevention and Criminal Justice to adopt a Single Declaration containing recommendations derived from the deliberations of the High-level Segment, the Round

Tables and the Workshops, to be submitted to the Commission on Crime Prevention and Criminal Justice, acting as the preparatory body of the Congresses, for its consideration;

7. Welcoming the Contribution of the African Regional Preparatory Meeting for the Eleventh Congress on Crime Prevention and Criminal Justice, held in Addis Ababa, 1-3 March 2004, and its request that the African Union identify and coordinate issues pertinent to Africa;

8. Underscoring the importance of enhancing the capacity of Member States in the field of crime prevention and criminal justice, and of strengthening international cooperation;

9. Desirous of adopting an African Common Position on Crime Prevention and Criminal Justice;

We therefore commit ourselves individually and collectively to take the following steps:

III. PRIORITY POLICY OPTIONS

A. NATIONAL SOCIO-ECONOMIC DEVELOPMENT

10. Plan and design national crime prevention and criminal justice policies within the overall socio-economic policy and legislative context.

11. Call upon Member States to take preventive, protective and rehabilitative measures, through enforcement of compulsory education and provision of vocational training for the youth, monitor and bring abuses to light, carry out situation analysis at various levels, and raise awareness through public education activities and the mass media, including the incorporation of the appropriate educational modules into the school curricula at the primary, secondary and tertiary levels, and build coalitions with the civil society;

12. Pursue policies of economic growth to create employment, alleviate poverty and ensure better and equitable income distribution, in order to ensure access by the most vulnerable groups, particularly women and children, to productive assets, including land, credit, technology and information. The resultant programme can be prosecuted in a partnership between government, the private sector, the citizens and the international community, particularly targeting accelerated growth of agriculture and food production, and also complementing these with health services and transportation systems at affordable rates. Particular attention should be paid to strengthening family economic empowerment programmes and social safety nets for the most disadvantaged families and vulnerable groups, including women, children and youth, prone to crime commission and recruitment into criminal syndicates;

13. Ensure effective capacity-building for the national law enforcement, prosecutorial, judicial and custodial components of the criminal justice systems, to play a key role in the

formulation of national policies on crime prevention and criminal justice, on the one hand, and poverty alleviation, on the other;

14. Ensure that custodial authorities adopt necessary measures to prevent HIV/AIDS, bloodborne, and other communicable diseases, and that inmates affected by these diseases are given appropriate treatment;

15. Address and prevent abusive treatment and corruption on the part of public services and mobilise the vulnerable and disadvantaged groups in the fight against abusive treatment and corruption;

16. Call upon the World Bank, International Monetary Fund (IMF), United Nations Development Programme (UNDP), United Nations Commissions on Narcotic Drugs (UNCND) and Crime Prevention and Criminal Justice and (UNCCPCJ) and United Nations Office on Drugs and Crime (UNODC) to look into the question of international resources and the social impact of Structural Adjustment Programmes (SAP) on the citizens of Member States, with a view of ameliorating the adverse impact of these programmes on the poor, with its resultant crime-producing tendency;

B. BROAD SOCIAL PROGRAMMES TO PREVENT AND COMBAT DRUG AND CRIME

17. Collect, collate, analyse and disseminate information about the hazards and consequences of drugs, crime and criminality on citizens, their families and societies, including the severe cost of drug abuse and crime on sustainable development;

18. Advocate for the protection of women, children and youths in particular, and the combating and elimination of trafficking in persons and the recruitment of children and youths into criminal syndicates, by giving the family a more important role in combating crime and drugs, with due regard to creed, religious and cultural values;

19. Ensure access by women, children and youths to information about their rights, and warnings about the modus operandi of human traffickers, including traffickers in human organs, and recruitment syndicates into crime, prostitution and pornography;

20. Adopt effective measures to prevent child labour, in conformity with the relevant international and national labour laws;

21. Involve relevant government units, citizens, societal organizations, NGOs, professional associations and trade unions to participate fully in the process of developing national policies and programmes to combat drug, crime and criminality;

22. Promote representative government, proper management of public affairs and public property, transparency and accountability to the public interest, and supportive of national and local/grassroots social and economic development with a clear rejection of the phenomenon of impunity;

23. Support micro-credit, marketing and investment schemes to assist the poor and the disadvantaged including victims of human trafficking and organized crime, in the areas of agriculture, food production and other small scale enterprises, which will be designed to assist them in becoming respectable self-employed individuals, who will contribute to national development;

24. Develop programmes aimed at addressing the needs of communities emerging from conflicts, with a view to alleviating the consequential scourge of crime and drugs;

25. Support efforts to draft and finalize as appropriate:

a) The United Nations Convention against Theft of and Trafficking in Cultural Property,

b) The United Nations Convention against Cyber Crime,

c) The United Nations Code of Conduct against Terrorism, and

d) Draft Comprehensive Convention Against Terrorism in all its ramifications.

26. Address the root causes of terrorism, including the factors which motivate individuals and groups to commit terrorist acts. Such knowledge should be used to generate public awareness about the problems, root causes and effect of terrorism on the society and the process of development, as well as enhance the capacity of law enforcement, criminal justice, social services and other relevant officials to develop appropriate strategies for eliminating the root causes of terrorism and its motivation, and for eliminating terrorism itself from the society;

27. Call upon Member States to mobilize their national resources, including governmental, other institutional, private sector, civil society and citizens to enhance the capacities of Member States in the field of crime prevention, law enforcement, prosecutorial, judicial and custodial functions, through training, reform and reorganization, information/intelligence gathering, research, collation and analysis, and dissemination of information in crime prevention and criminal justice;

28. Promote respect for human and peoples' rights, in accordance with the provisions of the African Charter on Human and Peoples' Rights, and other relevant regional, continental as well as international instruments, including international humanitarian law. and to promote the provision of legal aid to citizens, to enable them effectively enforce their rights in criminal justice administration;

29. Ensure Declaration of Assets by elected and/or appointed public officials, through the adoption of Codes of Conduct, and allow the general public to have access to such Assets Declarations;

30. Adopt necessary measures to promote integrity, transparency and accountability in the Public and Private Sectors.

31. Promote institutional collaboration among agencies fighting against organized crime, drug, terrorism, corruption and fraud at the national, bilateral, regional, continental and international levels, in order, inter alia, to enhance information exchange and share best practices;

32. Call upon Member States to incorporate treatment sentencing within their criminal justice systems, with due regard to their national legislations.

C. LEGAL FRAMEWORKS AND IMPLEMENTATION

33. Sign, ratify and adopt as appropriate, the sub-regional, regional and international instruments in the field of crime prevention and criminal justice listed in Annex A, and such Codes of Conduct, Declarations, Decisions, Recommendations, Plans of Action, Programmes of Action, Standard Minimum Rules, Principles, Guidelines, Safeguards, Procedures, Model Agreements and Regimes, in the field of crime prevention and criminal justice, listed in Annex B. Member States should give priority attention to their full implementation.

34. Participate in the preparation and timely completion of new bilateral, regional, continental and international arrangements for effectively combating crime and improving criminal justice, particularly those relating to terrorism, money-laundering, cyber crime, and theft and trafficking in cultural property, whilst pursuing the speedy accession to existing Conventions and Protocols and their effective implementation;

35. Enact and harmonize national legislations and formulate policies on effective measures to combat crime and criminality.

36. Formulate time-bound, measurable programmes of action and targets, in order to

- a) reduce the incidents and impact of organized crime, drug abuse and trafficking, trafficking in persons and firearms, smuggling of migrants, terrorism, corruption, economic and financial crimes, money-laundering, urban crime and risks to youth, and develop and strengthen international cooperation in law enforcement, including mutual legal assistance and extradition measures, within the context of respect for human rights;
- b) reform the criminal justice system, including the introduction or enhancement of restorative justice, as appropriate;
- c) monitor and evaluate ongoing programmes periodically, and use the results of the evaluation to replicate and adapt best practices;

37. Strengthen capacities at national and regional levels for addressing the problems of crime prevention and criminal justice in the context of the African economic, social, cultural and political development, through research and analysis of problems leading to increase in the number of incidents of crime, with a view to establishing appropriate strategies and mechanisms for solving those problems;

D. REGIONAL AND INTERNATIONAL COORDINATION AND COOPERATION

38. Call upon Member States and the international community to increase their financial and technical assistance to the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI), in order to enhance its capacity to provide the required technical services to Member States of the African Union, and to promote and coordinate regional technical activities related to crime prevention and criminal justice systems in Africa;

39. Strengthen cooperation and partnerships among Member States and the AU Commission, relevant UN Agencies, and African and other international partners, in order to effectively combat transnational organized crime, including drug trafficking, trafficking in persons and firearms, smuggling of migrants, terrorism, corruption, economic and financial crime, money-laundering and cyber crime, promote crime prevention and enhance criminal justice reform, including restorative justice;

40. Encourage closer link between the Commission of the African Union and the United Nations Commission on Crime Prevention and Criminal Justice in the field of crime prevention and criminal justice;

41. Establish inter-ministerial mechanisms at sub-regional and regional levels to monitor the incidents of crime, collect and analyse data, and coordinate efforts to prevent and combat them;

42. Stress the imperative need to implement the African Union Plan of Action on the Prevention and Combating of Terrorism; and in this regard, welcome the establishment and launching of the African Centre for the Study and Research on Terrorism, in Algiers, Algeria, as a novel achievement in Africa's collective efforts to outlaw and eradicate the scourge of terrorism from the Continent;

43. Urge all Member States of the Union to extend full cooperation and support to the Centre as well as take active part in their activities, and further urge those that have not yet done so to establish, as soon as possible, National Focal Points to liaise with the Centre;

44. Appeal to Africa's Partners, including international organizations, agencies, institutions and similar Centres around the world to provide support to the Centre and establish networks for information sharing, training, research, investigative and joint activities;

45. Establish the African Regional Centre for the Prevention and Eradication of Illicit Firearms Trafficking (the Regional Firearms Centre) to serve as a regional focal centre for effective promotion of cooperation, collaboration and coordination in this area, as well as facilitate the collection and exchange of information, and harmonization of the relevant legislation;

46. Establish urgently the Advisory Board on Corruption which shall collect and document information on the nature and scope of corruption and related offences in Africa, develop methodologies for analysing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences, and advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions, among other functions;

47. Create an African Crime and Criminal Justice Information Network, under the auspices of the African Union Commission, as the core of Pan-African crime prevention and criminal justice activities and programmes;

48. Urge Member States to intensify efforts to accelerate the establishment of these two Centres and Network and mobilize, with necessary contribution from their private sectors, the necessary financial and other assistance, to enable the Centres and the Network function effectively and efficiently. To this end, call upon Africa's Partners, including international organizations, agencies, institutions and similar Centres and Networks around the world, to provide support to these Centres and Network, and establish networks for information sharing, training, research, investigation and joint activities;

49. Mobilise funding for specific crime and criminal justice related Pan African projects. To this end, the African Region should additionally recommend the repatriation of all monies unlawfully removed from the economies of their Member States to the countries of origin, to enable Member States of the African Union cope better in their fight against such sophisticated crimes as transnational organized crime, drug trafficking and trafficking in persons and firearms, smuggling of migrants, terrorism, corruption, money-laundering, economic and financial crimes and cyber crimes;

50. Utilize the available expert resources of United Nations Office on Drugs and Crime (UNODC), United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) and United Nations Interregional Crime and Justice Research Institute (UNICRI), International Organization for Migration (IOM) and International Criminal Police Organization (ICPO-INTERPOL) in the various capacity building and research projects/programmes outlined above. To this end, international technical assistance, on bilateral and multilateral bases, should be provided for African countries to enhance their capacities for ratifying and implementing the OAU/AU Conventions and Protocols on Corruption and Terrorism, and the United Nations Organized Crime Convention and its Protocols, as well as the adoption and implementation, at the international level, of other arrangements on corruption, economic and financial crimes, including money-laundering, cyber crime and theft of and trafficking in cultural property;

IV. ADOPTION OF COMMON POSITION

Member States are invited to adopt the Common Position as contained under the Priority Policy Options and to ensure that the steps outlined hereunder are not only implemented

at the national level, but will also be used as guidelines for African delegates at the forthcoming Eleventh United Nations Congress on Crime Prevention and Criminal Justice, holding in Bangkok, Thailand, 18-25 April 2005. The Common Position is therefore expected to facilitate the adoption of a meaningful Congress Declaration, which will take account of Africa's realities and interests, and which will go a long way to intensify efforts towards combating and controlling transnational organized crime, drug trafficking, trafficking in persons and firearms, smuggling of migrants, terrorism, corruption, economic and financial crimes, money-laundering and computer-related crime, as well as enhancing criminal justice reforms, including restorative justice.