

ADDRESS BY THE HONOURABLE DR E N TJIRIANGE, MP,  
MINISTER OF JUSTICE AND ATTORNEY-GENERAL OF THE  
REPUBLIC OF NAMIBIA AND CHAIRMAN OF THE  
COORDINATING UNIT OF THE SOUTHERN AFRICAN  
DEVELOPMENT COMMUNITY (SADC) LEGAL SECTOR AT  
THE TENTH (10TH) UNITED NATIONS CONGRESS ON THE  
PREVENTION OF CRIME AND THE TREATMENT OF  
OFFENDERS, VIENNA 10-17 APRIL 2000.

Honourable Secretary-General of the Tenth United Nations Congress,  
Mr Pino Arlacchi

Honourable Executive Secretary of the Tenth United Nations  
Congress, Mr Jan van Dijk

Honourable Secretary of the Tenth United Nations Congress, Mr  
Jonathan Lucas

Honourable Ministers of Justice and Attorneys- General

Your Excellencies, Heads of Diplomatic Missions

Distinguished Delegates

Distinguished Guests

Ladies and Gentlemen

On behalf of the Government and people of the Republic of Namibia,  
permit me to express my profound appreciation for the invitation that  
has been extended to us to address this august gathering on the  
occasion of the Tenth (10th) United Nations Congress on the  
Prevention of Crime and the Treatment of Offenders.

The Tenth Congress is, of course, a continuation of a noble tradition  
which the United Nations started way back in 1955 to hold a  
world-wide Congress on the Prevention of Crime and the Treatment  
of Offenders every five years.

Mine is indeed a great honour to be addressing you on topic II, agenda  
item four (4) titled: "International Cooperation in Combating  
Transnational Crime: New Challenges in the Twenty-First Century".

Before I get to the substantive text of my address, permit me to state that this is only an abridged version of my original address in view of the limited time at my disposal. The full text is however available for circulation to any interested party.

## **THE IMPERATIVES OF INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME**

It must be stated at the very outset that any meaningful effort to effectively combat the evils represented by transnational organised crime requires the full commitment of the international community to the prevention of crime and the promotion of justice through ever more increased practical international cooperation than has hitherto been the case. This is because transnational organised crime poses a grave threat to human rights, the territorial integrity of States, the stability of democratically elected governments, the rule of law and economic and social development. The need for practical international cooperation is nowhere more keenly felt than in the developing world where nascent economics can hardly provide the resources necessary for the effective combating of transnational organised crime. It is indeed only through the promotion of concerted, multilateral and interdependent cooperative measures that both the developed and the developing worlds can present a united front that can effectively serve as a bulwark against transnational organised crime.

Thus, the acute interdependence between the developed and the developing worlds needs to be properly appreciated and nurtured by all concerned. It is only when this reality is underscored by the implementation of coordinated practical technical assistance in clearly identified and defined areas of need of countries in the developing world - such as information exchange, transfer of knowledge i.e. modern techniques to combat crime that are consistent with international human rights standards, establishment of proper channels of communication, human and financial resources and the training of personnel - that we can collectively concretize what needs to be a global commitment to improve criminal justice and crime prevention so as to begin to make tangible inroads into the gains made by transnational organised crime.

For the developing world to be an effective partner in the fight against transnational organised crime would in some instances require effective practical technical assistance aimed at the modernization of criminal justice systems. Among other things, this would require the computerisation of criminal justice operations if only to try and counteract the sophisticated operations of transnational organised crime which has been made possible by the advances in information technology and the enormous financial resources at its disposal. This is one clearly identifiable and defined area in which practical assistance would be greatly helpful because constant advances in information technology, in particular electronic communication systems, makes it difficult for crime prevention and criminal justice systems in developing countries to keep abreast of such technological developments.

Increasingly, criminal justice systems of the developing world are confronted on a daily basis with new forms of crime and new ways of committing crime for which they do not have the requisite resources to deal with. This requires the costly re-evaluation of crime prevention programmes and the concomitant diversion of already scarce resources from other needy social programmes.

Even with these costly readjustments, the efforts of individual countries in the developing world can, at best, still only represent a mere drop in the ocean compared to the vast resources available to transnational organised crime.

In the absence of a coordinated, truly global campaign against transnational organised crime, efforts at national level by individual countries in the developing world will realistically constitute a veritable exercise in futility as they will be woefully inadequate to stymie the operations of transnational organised crime.

Individual countries in the developing world are therefore extremely vulnerable to the serious threat posed by organised crime such that their economies can easily be overwhelmed and the integrity of their democratic national institutions compromised.

The difficult socio-economic conditions which many countries in the developing world are having to grapple with also provides an ideal environment in which organised crime can easily take a foot-hold. There is thus an undeniable link between crime and underdevelopment.

It is against this background that technical cooperation in the field of crime prevention and criminal justice between countries in the developed and developing worlds assumes ever-greater significance. Such cooperation would perforce be premised on the recognition of the interdependence between the developed and the developing worlds in the fight against transnational organised crime. In an increasingly interdependent global village that we all live in, the converse is, of course, that whatever effective measures are adopted by countries in the developed world would necessarily be rendered nugatory if countries in the developing world are not in a position to implement the same effective measures. It cannot be gainsaid that practical technical assistance will benefit countries in the developing world as well as those in the developed world because it necessarily would create conditions favourable to peace, stability, investment opportunities and economic development.

It is only through effective technical cooperation and assistance that countries in the developing world can meaningfully enhance their capacity in the field of crime prevention and criminal justice by way not only of upgrading the professional skills of law enforcement and other justice personnel, but also to structure and in some cases restructure their crime prevention and criminal justice systems in a cost-effective and result-oriented manner.

It is in this light that the Government and the people of Namibia would like this Tenth Congress to take stock of the fact that countries in the developing world must be in a position or be assisted to be in a position to strengthen and improve their capacity to effectively respond to organised transnational crime individually as well as collectively through the instrumentalities of sub-regional, regional and international cooperation mechanisms. This is imperative if we are all to succeed in our global fight against organised transnational crime

and also if these countries are to be able to effectively counter the seriously debilitating effects of transnational organised crime on democratic institutions, the rule of law and development through appropriate crime prevention measures and efficient criminal justice systems.

The need for technical assistance tailored towards capacity-building for purposes of effective crime prevention can therefore not be over-emphasised in view of the fact that the criminal justice systems in many countries of the developing world are greatly under-resourced with in most cases undertrained staff unable to deal effectively with sophisticated forms of transnational organised crime which presents daunting challenges to traditional ways of crime prevention.

## **INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME: MEASURES UNDERTAKEN BY THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA**

The government and the people of Namibia are strongly committed to the fight against transnational crime in view of the grave threat that it poses to the stability, integrity, rule of law, democracy and economic development of young democracies such as ours in the developing world.

This strong commitment is aptly reflected in our active involvement in subregional initiatives aimed at countering transnational crime within the framework of credible institutions such as the Southern African Development Community (SADC) and the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) as a member thereof.

The SADC member States are conscious of the threat posed by transnational crime. This is reflected by the fact that within the framework of SADC several important draft Schemes have been prepared for consideration by the member States with a view towards eventual adoption. The specific objective of these Schemes is to facilitate enhanced cooperation and assistance between the member States in the fight against transnational crime.

The Schemes in question are:

- **Draft Scheme relating to Mutual Assistance in Criminal Matters within the SADC Region;**
- **Draft Scheme for the Transfer of Convicted Offenders within the SADC Region; and**
- **Draft Scheme for the Rendition of Fugitive Offenders within the SADC Region.**

Namibia is also a member of a cohesive crime-fighting sub-regional mechanism known as the Southern African Police Chiefs Cooperation Organisation (SARPCCO) which facilitate the co-ordination of crime prevention measures within the subregion.

This mechanism is premised on the principle that crime, more specifically organised transnational crime can only be successfully combated through concerted efforts at multilateral level. It is therefore the primary operational mechanism in Southern Africa for the prevention and fighting of cross-border crime including the trafficking of weapons. It came into being on 2 August 1995 in Zimbabwe on the basis of a Multilateral Cooperation Agreement.

SARPCCO is effectively the sub-regional operational arm of the International Criminal Police Organisation (ICPO-Interpol). Thus the SARPCCO Secretariat and the subregional bureau of Interpol based in Harare, Zimbabwe are one and the same as they share the common objective of 'ensuring and promoting the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights and to establish and develop all institutions likely to contribute effectively to the prevention and suppression of crimes'.

The membership of SARPCCO currently stands at twelve. Initially, it comprised police chiefs of eleven founding countries namely Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa,

Swaziland, Tanzania, Zambia and Zimbabwe.

However, since SARPCCO has an open-door policy with regard to membership in that other countries may gain membership by way of special resolution, Mauritius became the twelfth member shortly after its admission to the Southern African Development Community (SADC).

From a practical viewpoint however, SARPCCO membership is effectively restricted to the Southern African subregion and more specifically to the SADC member States although the Democratic Republic of Congo and Seychelles have not yet become members of SARPCCO.

Namibia's firm commitment to the fight against transnational crime is further reflected by our active involvement and participation in the on-going negotiations and discussions on the Draft United Nations Convention Against Transnational Organised Crime within the framework of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organised Crime which recently held its Eighth Session on the Draft Convention here in Vienna from 21st February - 3rd March 2000. This is because the tentacles of organised crime have a global outreach and effect which therefore necessitates that regional and subregional efforts be complemented by global measures such as are envisaged in the Draft United Nations Convention on Transnational Organised Crime.

The conclusion, adoption and ratification of this very historic and important United Nations instrument will provide the international community with an effective tool not only to promote cooperation against transnational organised crime but also to prevent and combat such crime more effectively. This is because the Convention will have elaborate provisions on corruption, money laundering, extradition, mutual legal assistance, joint investigations, collection and exchange of information on the nature of organised crime etc.

Even more significantly, the Convention will be an effective guide for those of us who have yet to promulgate laws on some of the crimes that fall within its scope, to model our laws thereon taking into consideration the objective prevailing conditions in our individual countries.

The Namibian Parliament has also enacted a number of laws since independence which in some measure seek to facilitate the fight against transnational crime as well as foster and enhance transnational cooperation in other criminal and civil matters. Permit me to briefly outline the said laws as follows:

**i. Foreign Courts Evidence Act 1995 (Act 2 of 1995)**

In terms of the Foreign Courts Evidence Act No 2 of 1995, the High Court may order the examination of any witness in Namibia who is within the High Court's jurisdiction for purposes of obtaining evidence if it appears to the Court or any Judge that a court of law of competent jurisdiction outside Namibia before which any civil or criminal proceedings are pending, is desirous of obtaining the evidence in relation to such proceedings.

**ii. Reciprocal Enforcement of Maintenance Orders Act, 1995 (Act 3 of 1995)**

The title of this Act is self-explanatory in that the Act basically provides for the reciprocal enforcement of maintenance orders made in Namibia and in designated countries.

**iii. Reciprocal Service of Civil Process Act, 1994 (Act 27 of 1994)**

This Act basically provides for the reciprocal service of process in civil matters in Namibia and in designated countries.

**iv. Enforcement of Civil Judgements Act, 1994 (Act 28 of 1994)**

This Act provides for the enforcement in Magistrate's Courts in Namibia of civil judgements granted by courts in designated countries.

v. **Extradition Act, 1996 (Act 11 of 1996)**

In terms of this Act, any person in Namibia, other than a Namibian citizen, who is accused of having committed an extraditable offence within the jurisdiction of a requesting country or who is alleged to be unlawfully at large after having been convicted of an extraditable offence in the requesting country, may upon request, be arrested and returned to a requesting country provided such a country has entered into an extradition agreement with Namibia or such a country has been specified by the President of the Republic of Namibia by Proclamation in the Government Gazette.

Two draft bills originating from the Ministry of Justice are also in their final stages, one of which has already been tabled in Parliament. The bills in question are 'International Cooperation in Criminal Matters' Bill and the 'Prevention of Organised Crime' Bill.

The former seeks to facilitate the provision of evidence and the execution of sentences in criminal cases and the confiscation and transfer of the proceeds of crime between Namibia and Foreign States and to provide for matters connected therewith. The latter seeks to provide for the recovery of the proceeds of crime, for the prohibition of money laundering, for an obligation to report certain information and to provide for matters connected therewith.

On 19 January 2000, the Namibian Parliament also endorsed the accession by the country to the **Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents**. This Convention has the effect of simplifying a series of formalities which used to complicate the utilisation of public documents outside the countries from which they emanated.

The Convention effectively reduces all the formalities of legalisation to the simple delivery of a certificate which is dated, numbered and registered in a prescribed form by the authorities of the State where the document originates. Verification of registration is effected easily by a simple request for information from the authority which delivered the certificate. Thus, the Convention lightens the task of

judges before whom foreign documents are produced.

We in Namibia are indeed proud of the initiatives that we have set afoot in combating transnational organised crime within our subregion in conjunction with other States in the subregion. We would however, be the first to admit that without a global instrument which co-ordinates international cooperation and effective practical, technical assistance in the global fight against organised crime, our own efforts and the efforts of others both within a regional and subregional context, will necessarily be very limited and woefully inadequate.

I THANK YOU.