'International criminal law, as is the case with criminal law in general, seeks a balance between the protection of society through the efficient operation of the criminal justice system, the protection of the rights of the individual, [defendant and victim], and the maintenance of the rule of law.'

The subject was strangely twofold: the first topic concerned the regionalization of international criminal law, the second one the protection of human rights in international cooperation in criminal proceedings. The work of Section IV was therefore divided at first glance into different parts. However the discussion of this quoted preamble of the draft resolution already expressed the points of confluence: the growing trend toward regionalization in international criminal law has its impact on the position of the individual and increases the need for the development of the protection of human rights (LAHTI).

The work of Section IV seemed to be a particularly difficult one also due to the fact that the preparatory colloquium took place in Helsinki (September 2-6, 1992) and had a more or less Euro-centred approach to the topic of Regionalization. Nevertheless the debate showed that this European approach had to be considered as an excellent pars pro toto one – to problems to be found in all regions of the world, united in the constant attempt to protect
human rights in a changing world with changing challenges of new kinds of transborder crime in particular.

1. REGIONALIZATION

In his preliminary remarks the General Rapporteur of the Section, Schutte, encouraged a discussion on the merits of regional cooperation as distinct from bilateral cooperation on the one hand and universal, worldwide cooperation on the other, to discover whether the future of the development of international criminal law lies with regional approaches or not.\(^7\) One of course should bear in mind geographical circumstances. The reason why countries like the USA or Canada have always preferred the establishment of networks of bilateral treaty relationships can be explained partially by geographical circumstances.\(^8\)

International cooperation in criminal matters should not be understood as dealing with specific forms of judicial cooperation in particular cases only. Interesting as it may be to discuss the law and practice of such forms of cooperation as extradition, mutual legal assistance, the transfer of prisoners or the transfer of criminal proceedings, there is much more that may help to foster cooperation and make the common fight against crime worthwhile (Schutte).

It was interesting to listen to national reports on the different approaches to international cooperation, be it primarily by national law (Shibahara/Japan: only one bilateral treaty in this field), by bilateral treaties (Mwansa/Zambia) or by setting up a multilateral network originated by the UN on a universal plan or a regional plan such as NAFTA, SADIC, OAS or in particular the European Networks (Council of Europe, EU, Schengen, Scandinavian Countries, Benelux) already mentioned.

Zagaris/USA and Wilkitzki/Germany stressed the importance of well functioning cooperation at a time when borders are increasingly loosing their functions, new techniques are developing faster than treaty policy is able to react to those new challenges. They advocate open conventions/ UN or regional inter-governmental model treaties by giving the impressive figure of 14356 bilateral agreements (Wilkitzki) as being necessary if all of the approximately 170 UN-Member States were to base their cooperation only on individual treaties.

Triffterer/Austria emphasized that, in addition to the favoured multilateral approach, additional/supplementary treaties to improve specific cooperation cannot be neglected. Eser/Germany took the floor with a plea for harmonization (not uniformity) of penal jurisdiction. Both of them saw the need for additional international criminal jurisdiction, be it on a regional or a universal level, since such permanent courts, which have been recommended by the AIDP for decades, have not yet been set up for the purpose of prosecuting international and transborder crimes.

These contributions were followed by vehement pro-and contra discussion (Covino Jr./Brazil, Schutte (plea for confinement to a universal level), Schomburg in favour of regional international courts, Frimpong/Botswana warning that an international court could also be abused by powerful states against weaker ones, a fear not shared by Pisani/Italy and


8. In general, see e.g. ETS 112, Convention on the Transfer of Prisoners, a Council of Europe Convention, being ratified by Canada, USA, Australia, Bahamas, Trinidad and Tobago.