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Agenda item 5

Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime

Draft report

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Addendum

Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime

Proceedings

1. At its 11th and 12th plenary meetings, on 17 April 2015, the Congress considered agenda item 5, entitled “Comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime”. For its consideration of the items, the Congress had before it the following documents:

(a) Working paper prepared by the Secretariat on comprehensive and balanced approaches to prevent and adequately respond to new and emerging forms of transnational crime (A/CONF.222/8);

(b) Discussion guide for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/CONF.222/PM.1).

2. The 11th plenary meeting, on 17 April 2015, was chaired by Ghazi Jomaa (Tunisia), Vice-President of the Congress. A representative of the Secretariat introduced the agenda item and a summary was presented to the plenary by the scientific moderator for workshop 3, entitled “Strengthening crime prevention and criminal justice responses to evolving forms of crime, such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation”. Statements were made by the representatives of Japan, Switzerland, Viet Nam, Brazil, Germany, Norway, Thailand, Australia, the Netherlands, Egypt,



Haiti, China, Iraq, Tunisia, Indonesia, Algeria, the Sudan, Morocco, India, France, the Russian Federation and Peru.

3. The 12th plenary meeting, on 17 April 2015, was also chaired by Mr. Jomaa. Statements were made by the representatives of Ecuador, Oman, Canada, Iran (Islamic Republic of), Spain, Kuwait, the United States, El Salvador, Pakistan, Saudi Arabia, Italy, South Africa and Qatar. Statements were also made by the observers for the European Union, the Organization of Islamic Cooperation, the Council of Arab Ministers of the Interior, the Council of Europe and the Environmental Investigation Agency.

General discussion

4. In the introductory statement, the representative of the Secretariat recalled General Assembly resolutions 65/230, 65/232 and 66/181, as well as the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, in which a number of new and emerging forms of crime of particular concern for Member States had been noted. She indicated that many new and emerging forms of crime were greatly facilitated by advances in information technologies, and that poverty, weak rule of law, and corruption were significant drivers of those types of crimes. She emphasized the importance of the adoption by Member States of relevant criminalization provisions to facilitate investigations and prosecution, as well as international cooperation. She noted that UNODC assisted Member States in that regard through its global programmes and tools related to different new and emerging forms of crime.

5. Several speakers noted that information and communication technologies were increasingly enabling or facilitating many new and emerging forms of crime. It was also noted that, at the same time, such technologies had a crucial role to play in responding to those types of crimes. In that respect, enhanced technical capacities on the part of law enforcement authorities were considered essential for effectively addressing new and emerging forms of crime, particularly in relation to the handling of electronic evidence and the effective and timely response to formal and informal requests for mutual legal assistance and other forms of international cooperation. Speakers made reference to the benefits of special investigative techniques and the carrying out of joint operations by law enforcement. With regard to the misuse of information and communication technologies and the Internet, the need to balance effective responses and respect for human rights was also discussed. The text of the Doha Declaration concerning new and emerging forms of crime was welcomed.

6. Some speakers noted the proximity of organized crime to poverty and weak rule of law, as well as its deleterious impact on State authority, national security and stability and on the ability of countries to achieve internationally agreed development goals. It was also noted that the challenge posed by new and emerging forms of crime needed to be addressed in relation to sustainable development efforts and the rule of law. A number of speakers referred to the increasing links that might exist between new and emerging forms of crime and other forms of transnational organized crime, terrorism and its financing, corruption, money-laundering, illicit trade in firearms, trafficking in persons and smuggling of migrants.

7. Many speakers emphasized the essential role of the Organized Crime Convention, the Convention against Corruption and the international drug control conventions, among other relevant international instruments, in tackling new and emerging forms of crime. It was widely acknowledged that national laws and legislation, in particular criminalization provisions and criminal procedures, needed to be updated and enforced in order to effectively respond to new and emerging forms of crime and engage in effective international cooperation. Speakers noted that the Organized Crime Convention was applicable when dealing with many new and emerging forms of crime.

8. The view was widely held that the development and delivery of technical assistance and capacity-building activities, and international cooperation, were fundamental components of the global fight against new and emerging forms of transnational crime. Many speakers discussed their Governments' efforts to implement international instruments, such as the Organized Crime Convention and the Convention against Corruption, and their bilateral, regional and international cooperation activities, including with intergovernmental organizations, including UNODC, the International Criminal Police Organization (INTERPOL) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

9. Many speakers underlined the vital role of prevention and awareness-raising strategies at the national and international levels in order to deal with new and emerging forms of transnational crime, which needed to include participation of stakeholders across all sectors of society, including public-private partnerships. The important role of research and data collection in shaping effective responses to new and emerging threats was also highlighted.

10. Many speakers noted that cybercrime was an increasingly complex crime that was transnational in nature and involved the participation of organized criminal groups that were able to adapt to changing circumstances at a considerably faster pace than law enforcement authorities. Some speakers noted the importance of collaboration between national authorities and Internet service providers in tackling cybercrime. A few speakers discussed the activities of the UNODC Global Programme on Cybercrime and expressed continued support for their Governments' contributions to the Programme. Some speakers also made reference to the work of the open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime and to the text of the Doha Declaration in relation to the follow-up to the work of the expert group.

11. A number of speakers indicated that the creation of a new international legally binding instrument on cybercrime, within the United Nations framework, was needed in order to deal effectively with gaps in existing legislation, including with regard to criminalization, and to improve the global response to cybercrime. Other speakers indicated that such an instrument was not necessary, since existing instruments, in particular the Council of Europe Convention on Cybercrime, which was open to signature and ratification by parties outside of Europe, were sufficient to effectively address the challenges posed by cybercrime.

12. A number of speakers referred to the current situation in Iraq and the Syrian Arab Republic in relation to the destruction of cultural heritage and welcomed the adoption of Security Council resolution 2199 (2015). A number of speakers indicated that a new international legally binding instrument in relation to

trafficking in cultural property was needed to effectively address that transnational crime, while others indicated that existing instruments, such as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the Organized Crime Convention, were sufficient. Many speakers called for enhanced coordination between relevant international organizations, including UNODC, UNESCO and INTERPOL, in assisting Member States in responding to trafficking in cultural property, illegal excavation and looting, restitution, recovery and return, among other things. Many speakers welcomed the recent adoption by the General Assembly of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, and encouraged their full application. A few speakers expressed the view that the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property¹ should be further assessed and revised.

13. Several speakers drew attention to the increasing threat of environmental crimes, including the illegal trade in wild fauna and flora, ivory, rosewood and ebony, along with forest crime, illegal poaching and trafficking in hazardous waste, which harmed ecosystems on a national, regional and global scale. A few speakers expressed their concerns about illegal fishing in that regard. The importance of implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora was highlighted in that context and reference was made to Economic and Social Council resolution 2013/40, the East Asia Summit Declaration on Combating Wildlife Trafficking, the London Declaration on the Illegal Wildlife Trade and the Kasane Statement on the Illegal Wildlife Trade. Some speakers also mentioned the development of tracking systems to trace sources of wildlife and reduce consumer demand, and the need to tackle the whole trafficking chain as effective measures in the fight against trafficking in wild fauna and flora. One speaker indicated that a new international legal instrument in relation to wildlife crime was needed. The *Wildlife and Forest Crime Analytic Toolkit*, developed by the International Consortium on Combating Wildlife Crime, was welcomed.

14. One speaker noted with concern the increase in crime within the fishing industry and its negative impact on the environment and economy, and urged States to take more concrete steps to combat that crime. A few speakers noted that existing legal instruments such as the United Nations Convention on the Law of the Sea already provided an adequate framework to deal with that type of illegal activity, and urged Member States to ratify and implement those instruments.

15. One speaker expressed concern regarding the development by UNODC of the model legislative provisions to combat fraudulent medicines posing threats to public health and referred to the lack of an internationally agreed definition for “fraudulent medicines”, including whether it contained the element of *mens rea*. Reference was also made to the risk of duplicating efforts undertaken in the framework of the World Health Organization and the World Trade Organization, the lack of an explicit mandate for UNODC to develop the provisions, and the need for consulting closely with Member States. Some speakers drew attention to the growing involvement of

¹ *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1, annex.

transnational organized criminal groups in the counterfeiting of goods, including fraudulent medicines, and to the increasing threat of counterfeit products to public health and safety. They welcomed the inclusion of a reference to counterfeiting in trademark goods in the Doha Declaration and expressed support for the efforts undertaken by UNODC to implement Commission on Crime Prevention and Criminal Justice resolution 20/6. One speaker further emphasized the need to strengthen international crime prevention and criminal justice responses to counterfeiting in all its aspects, including with regard to agro-industrial production.

16. One speaker reiterated the need for the establishment of a mechanism or mechanisms to assist the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in the review of the implementation of that Convention and the Protocols thereto, as per the terms contained in Conference resolution 5/5.

17. One speaker indicated that it would be important to consider adopting common terminology when discussing new and emerging forms of transnational crime, and welcomed the recent adoption by the General Assembly of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice.

18. One speaker expressed concern about the legalization of illicit drugs in some parts of the world. A call was made for adequate protection for government officials who were targets of transnational organized crime.

19. Other forms of crime to which particular attention was drawn by speakers included online child sexual exploitation, trafficking in human organs and smuggling of oil and oil derivatives.