



# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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## Fifth session

Vienna, 18-22 October 2010

### Draft report

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### Addendum

## IV. Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

### C. Expert consultation on the Protocol against the Smuggling of Migrants by Land, Sea and Air

1. At its 6th meeting, on 20 October 2010, the Conference considered agenda item 2 (c), entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: expert consultation on the Protocol against the Smuggling of Migrants by Land, Sea and Air”. For its consideration of the item, the Conference had before it the following:

(a) Report of the Secretariat on activities of the United Nations Office on Drugs and Crime to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (CTOC/COP/2010/7);

(b) Status of ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto and notifications, declarations and reservations thereto as at 29 September 2010 (CTOC/COP/2010/CRP.4).

2. A representative of the Secretariat made an introductory statement.

3. Statements were made by the representatives of Chile (on behalf of the States Members of the United Nations that are members of the Latin American and Caribbean Group), Algeria, Ecuador, Kazakhstan, Chile, Indonesia, Argentina, the United States of America, Australia and the Libyan Arab Jamahiriya.



4. The observer for the International Federation of the Red Cross and Red Crescent Societies also made a statement.

### **Deliberations**

5. A number of speakers welcomed the holding of the expert consultation on the Smuggling of Migrants Protocol.
6. Several speakers noted that their Governments had made progress in taking steps to implement the Smuggling of Migrants Protocol, including by adopting legislation, implementing national plans and strategies, and strengthening cooperation with regional and international organizations. A number of speakers stressed the need to fully implement the Protocol and for greater international cooperation, in particular among countries of origin, transit and destination.
7. Some speakers stressed the need to address the connection between the smuggling of migrants and trafficking in persons, and the overlap between those crimes and other forms of transnational organized crime. A number of speakers highlighted the importance of targeting the organized criminal groups involved in, among other activities, the smuggling of migrants. Some speakers emphasized the use of fraudulent identity and travel documents in smuggling. It was stated that corruption was both a driving force and a product of the smuggling of migrants.
8. Several speakers stressed the need to gather and exchange information regularly about trends, routes, modus operandi and other aspects of smuggling of migrants.
9. Several speakers underscored the need to balance criminal justice aspects of the smuggling of migrants with a human rights approach that addressed root causes such as poverty and unemployment, while adequately protecting smuggled migrants from violence and xenophobia regardless of their immigration status. It was noted that smuggled migrants who were witnesses to crime had to be protected in order to ensure the successful prosecution of smugglers.
10. It was noted that border control alone was insufficient to prevent the smuggling of migrants and that a balanced approach that also addressed the push factors of migration was needed.
11. Speakers called for the criminalization of the smuggling of migrants in domestic legislation and noted that laws should be enforced and sanctions must reflect the gravity of the offence. Several speakers welcomed the publication of the *Model Law against the Smuggling of Migrants* as a tool that would assist States in strengthening legislation.
12. Several speakers highlighted the need to develop a concerted approach to prosecution, prevention, protection and cooperation. In that context, it was noted that the technical assistance, training and policy development tools of UNODC were valuable in providing operational and practical guidance in the implementation of the Smuggling of Migrants Protocol.
13. Some speakers also encouraged the Conference to establish an inter-governmental working group on the smuggling of migrants that could serve as a useful forum for exchanging information on experiences and challenges in

addressing the smuggling of migrants with a view to strengthening implementation of the Protocol.

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