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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

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Agenda item 4

**Finalization and approval of the additional international legal instrument
against illegal trafficking in and transporting of migrants**

Proposals and contributions

Recommendations of the informal working group on article 7 *quinqüens* of the revised draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, submitted at the request of the Chairperson

The informal working group proposes to continue work on article 7 *quinqüens* on the basis of the following text:¹

*“Article 7 quinqüens
“Protection and assistance measures*

“1. In implementing this Protocol, States Parties shall take, consistent with their obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 4 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

“2. States Parties shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 4 of this Protocol.

¹ The text of article 7 *quinqüens* was produced by an informal working group chaired by the Holy See on the basis of the original text by Mexico and Morocco and proposals by Austria and Italy, Colombia and the Philippines. It was discussed by the Ad Hoc Committee and agreed to *ad referendum*, pending the drafting of the *travaux préparatoires* and the translation of the text into the other five official languages of the United Nations for final consideration by the Committee.

“3. States Parties shall afford appropriate assistance to migrants whose life or safety are endangered by reason of being the object of conduct set forth in article 4 of this Protocol.

“4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

“5. In the case of the detention of a person who has been the object of conduct set forth in article 4 of this Protocol, States Parties shall comply with their obligations under the Vienna Convention on Consular Relations,² where applicable, including informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.”

² United Nations, *Treaty Series*, Nos. 8638-8640, vol. 596, pp. 262-512.