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Chapter IV

International cooperation in combating transnational crime

A. Structure of the debate

1. At its 4th to 6th meetings, on 9 and 10 May, the Commission considered item 4 of its agenda. It had before it the following documents:

(a) Report of the Executive Director on the work of the Centre for International Crime Prevention (E/CN.15/2001/2 and Corr.1);

(b) Report of the Secretary-General on existing international legal instruments, recommendations and other documents addressing corruption (E/CN.15/2001/3);

(c) Report of the Secretary-General on the conclusions of the study on effective measures to prevent and control high-technology and computer-related crime (E/CN.15/2001/4).

2. At its 4th meeting, on 9 May, following an introductory statement by the Director of the Centre for International Crime Prevention, the Commission heard statements by the representatives of Egypt (on behalf of the Group of 77 and China), Peru (on behalf of the Group of Latin American and Caribbean States), Peru, Colombia, Mexico, Pakistan, the Russian Federation, South Africa, the Philippines, Belarus and Egypt. Statements were also made by the observers for Namibia (on behalf of the Southern African Development Community), Sweden (on behalf of the States Members of the United Nations that are members of the European Union, with which the following States also associated themselves: Bulgaria, Cyprus,

Czech Republic, Estonia, Hungary, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey), China, Guatemala and Turkey.

3. At its 5th meeting, on 10 May, the Commission heard statements by the representatives of Bulgaria, Poland, Japan, the Islamic Republic of Iran, United States of America, Argentina, Canada, the Sudan, Nigeria, the Netherlands, Algeria, Thailand, Mexico and India. Statements were also made by the observers for Sweden (on behalf of the States Members of the United Nations that are members of the European Union, with which the following States also associated themselves: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey), the Republic of Korea, Ecuador, Austria, Ukraine, Norway, Australia, Slovakia, the United Kingdom and Kuwait.

4. At its 6th meeting, on 10 May, the Commission heard statements by the observers for the Council of Ministers of the Interior, the Council of Europe and the International Scientific and Professional Advisory Council.

B. Deliberations

5. Many speakers noted that transnational organized crime was a widespread phenomenon, undermining and destabilizing political, economic and social systems. That threat to society could not be fought solely at the national level, but needed to be addressed by joint efforts. Several speakers also highlighted the importance of bilateral, regional and global cooperation in that area.

6. Participants expressed their appreciation of and full support for the United Nations Convention against Transnational Organized Crime and its protocols. The speedy ratification and implementation of the Convention and the protocols were essential, as they could be used as effective tools in combating transnational organized crime. Many speakers called upon States that had not yet signed those legal instruments to do so as soon as possible. States that had signed them were urged to undertake the necessary steps for their ratification and implementation.

7. Some speakers called upon donor countries to provide financial assistance, especially by making contributions to the United Nations Crime Prevention and Criminal Justice Fund, in order to support the efforts of developing countries in ratifying and implementing the Convention and its protocols, as well as to provide technical assistance to those countries.

8. Many speakers expressed satisfaction with the conclusion of the negotiation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime at its twelfth session, held in Vienna from 26 February to 2 March 2001.

9. Appreciation was also expressed for the progress that had been made by the expert group on the illicit manufacturing of and trafficking in explosives and their use for criminal purposes, in particular the result of its first meeting, held in Vienna from 12 to 16 March 2001.

10. Expressing concern about the lack of resources available for the expert group, one speaker called upon Governments to make additional voluntary contributions to enable the expert group to continue to prepare the study requested by the General Assembly in its resolution 54/127 of 17 December 1999. The representative of Mexico expressed the offer by his Government to act as host to the second meeting of the expert group between September and November 2001. To facilitate the work of the expert group at that meeting, the Government of Mexico would provide the premises and other relevant facilities for the meeting, as well as simultaneous interpretation in English, French and Spanish.

11. Finally, one speaker stated that the idea of negotiating an international legal instrument on the control of explosives, similar to a protocol to the United Nations Convention against Transnational Organized Crime, might require further careful consideration.

12. Several speakers acknowledged the gravity of high-technology and computer-related crime and emphasized the importance of taking action against such crime at then international level, including in the framework of the United Nations. It was noted that the fight against high-technology and computer-related crime required numerous sophisticated investigative measures and that following a common approach to fighting such crime was of vital importance. One speaker stated that his Government would provide a voluntary contribution for organizing an international seminar on computer-related crime.

13. Most speakers supported the recommendations in the report of the Secretary-General on effective measures to prevent and control high-technology and computer-related crime (E/CN.15/2001/4). In particular, most speakers supported the recommendation that the Centre for International Crime Prevention conduct a more detailed study of the problem, for submission to the Commission at its eleventh session (E/CN.15/2001/4, para. 45). With regard to the recommendation that an open-ended intergovernmental group of experts be established to examine the problem, several speakers expressed the view that the above-mentioned study should precede the establishment of such a group. Several speakers expressed the view that, on the basis of the detailed study, the establishment of a global programme against high-technology and computer-related crime could be considered by the Commission at its eleventh session.

14. One speaker, while acknowledging that it was premature to negotiate an international legal instrument dealing with high-technology and computer-related crime, supported the idea of considering the possible negotiation of such an instrument.

15. Deep concern was expressed for the effects of corruption on democracy, and on the stability and security of society, as well as on social, economic and political development. Several speakers drew attention to the fact that no country was immune from corruption and that corruption was increasingly becoming a transnational phenomenon, requiring effective international cooperation.

16. Appreciation was expressed for the report of the Secretary-General on existing international legal instruments, recommendations and other documents addressing corruption (E/CN.15/2001/3).

17. Speakers expressed their full support for General Assembly resolution 55/61 of 4 December 2000, in which the Assembly had decided to establish an ad hoc committee for the negotiation of an international legal instrument against corruption, and expressed their full commitment to the negotiation of such an instrument. Several speakers expressed the view that such an instrument should be in the form of a convention.

18. The view was expressed that the international legal instrument against corruption should build upon the experience gained by regional organizations in negotiating legal instruments addressing corruption and upon the experience gained in negotiating the United Nations Convention against Transnational Organized Crime.

19. Several speakers stressed that the future legal instrument against corruption should be based on a multidisciplinary approach and should cover a wide range of areas. In particular, reference was made to the issues of definition of corruption, definition of public officials, corruption in the private sector, sanctions, jurisdiction and international cooperation. Special emphasis was given to the need for effective measures to prevent corruption, including measures to promote integrity and good governance, as well as the adoption of codes of conduct.

20. Some speakers highlighted the importance of including in the future legal instrument provisions against the application of bank secrecy laws to impede or hinder criminal investigations or other legal proceedings relating to corruption, as well as specific provisions on money-laundering, in particular money-laundering the proceeds of corruption.

21. According to some participants, the future legal instrument should also provide for technical and operational assistance to be rendered to developing countries with a view to strengthening their institutional capacity to enforce anti-corruption measures and to investigate and prosecute offences to be specified in the instrument.

22. Other proposals presented during the discussion included a proposal on the establishment of a mechanism for providing compensation to parties who had suffered damage as a result of acts of corruption.

23. Finally, many participants highlighted the need for establishing a mechanism for monitoring the implementation of the future legal instrument.

24. During the discussion, there was broad recognition of the need for the future legal instrument to deal with preventing the illegal transfer of funds and returning illegally transferred funds to their countries of origin. Some speakers noted that the focus should be on the illicit origin of such funds rather than on the fact that their transfer might have also been illegal.

25. The Commission invited the intergovernmental open-ended expert group for preparing draft terms of reference for the negotiation of the future legal instrument against corruption, established pursuant to General Assembly resolution 55/61, to take into consideration the observations contained in chapters III and IV of the report of the Commission on its tenth session in performing the functions assigned to it by the Assembly in its resolutions 55/61 and 55/188.