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Addendum

International cooperation in combating transnational crime

1. At its 5th, 6th and 7th meetings, on 25 and 26 May 2005, the Commission on Crime Prevention and Criminal Justice considered agenda item 6, entitled "International cooperation in combating transnational crime". It had before it the following documents:

(a) Report of the Secretary-General on the United Nations Convention against Transnational Organized Crime and the Protocols thereto (E/CN.15/2005/6);

(b) Report of the Secretary-General on the establishment of an intergovernmental expert group to prepare a draft model bilateral agreement on disposal of confiscated proceeds of crime covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/CN.15/2005/7);

(c) Report of the Secretary-General on strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking (E/CN.15/2005/8);

(d) Report of the Secretary-General on the United Nations Convention against Corruption (E/CN.15/2005/9);

(e) Report of the Secretary-General on illicit trafficking in protected species of wild flora and fauna (E/CN.15/2005/10);



(f) Report of the Secretary-General on progress made by the Intergovernmental Expert Group to Prepare a Study on Fraud, the Criminal Misuse and Falsification of Identity (E/CN.15/2005/11).

2. At its 5th meeting, on 25 May, following an introductory statement by the Deputy Executive Director of UNODC and Director of the Division for Operations, the Commission heard statements by the observers for Bolivia (on behalf of the Group of Latin American and Caribbean States), Luxemburg (on behalf of the States members of the European Union and its candidate and potential candidate States) and the Philippines (on behalf of the Group of 77 and China). The representative of Croatia also made a statement.

3. At its 6th meeting, on 25 May, the Commission heard statements by the representatives of Algeria, Canada, Egypt, El Salvador, Indonesia, Iran (Islamic Republic of), Paraguay, the Republic of Korea, Turkey and the United States of America. Statements were also made by the observers for Australia, Azerbaijan, Chile, Colombia, the Philippines and Portugal.

4. At its 7th meeting, on 26 May, the Commission heard statements by the representatives of Brazil, Canada, India and Pakistan. Statements were also made by the observers for the Economic Community of West African States and the International Federation of Red Cross and Red Crescent Societies.

5. Reference was made to the report of the High-level Panel on Threats, Challenges and Change (A/59/565 and Corr.1) and the report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005). It was generally agreed that transnational organized crime was one of the most serious security threats facing the international community, in particular because of the growing links between transnational organized crime and other types of crime, in particular terrorism. A number of speakers pointed out that money-laundering also posed a serious challenge. The desirability of a new global instrument to address money-laundering was discussed, as well as the importance of fully utilizing the existing legal frameworks against money-laundering. Several speakers also noted that cybercrime and the use of technology by criminal groups, including terrorists, posed serious problems and that, consequently, more effective global action was required by the international community to provide security to cyberspace and critical infrastructure. In addition, developing countries needed technical cooperation assistance to deal with those threats effectively. Furthermore, more efforts should be made by the international community to combat trafficking in cultural property.

6. The full implementation of the Organized Crime Convention and its Protocols (General Assembly resolution 55/25, annexes I-III, and 55/255, annex) would greatly contribute to efforts to prevent and combat transnational organized crime more effectively. Several speakers welcomed the forthcoming entry into force of the Firearms Protocol (Assembly resolution 55/255, annex). A number of speakers also welcomed the establishment in 2004 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and the outcome of its first session, held in Vienna from 28 June to 9 July 2004. They expressed the wish that the second session of the Conference of the Parties, to be held in Vienna from 10 to 21 October 2005, would play a vital role in further strengthening international cooperation and promoting effective implementation of the Organized Crime

Convention and the Protocols thereto. Many speakers referred to their Governments' efforts to bring national legislation into compliance with the provisions of the Organized Crime Convention and its Protocols. Representatives of some of the States that had not yet become parties to the Organized Crime Convention and the Protocols thereto informed the Commission of the progress made towards the ratification of or accession to those legal instruments. Several speakers also shared their Governments' experience in the area of international cooperation on criminal matters, such as extradition and mutual legal assistance, emphasizing the need for further efforts to make those tools of international cooperation more functional and expeditious. The importance of designating a central authority, in accordance with the Organized Crime Convention, was also underscored.

7. Noting the critical importance of providing technical assistance and building institutional capacity to enable developing countries and countries with economies in transition to implement fully the Organized Crime Convention and its Protocols, many speakers called for increased technical assistance in those areas. The representatives of some donor countries informed the Commission of technical assistance programmes that were already in place. Several speakers expressed their appreciation for the work of UNODC in promoting the ratification and implementation of the Organized Crime Convention and the Protocols thereto. The Office was requested to continue providing technical assistance in those areas, including by organizing workshops and facilitating information exchange.

8. The Deputy Executive Director of UNODC and Director of the Division for Operations referred to General Assembly resolution 58/137 of 22 December 2003, in which the Assembly had urged Member States to take measures to ratify or accede to, *inter alia*, the Trafficking in Persons Protocol (Assembly resolution 55/25, annex II) and to employ a comprehensive approach to combating the phenomenon. She informed the Commission that the report of the Secretary-General prepared pursuant to that resolution (E/CN.15/2005/8) reflected the replies received from 37 countries, as well as numerous entities in the United Nations system. She stressed the need to improve data collection and capacity-building at the national level. She noted that UNODC would publish a global report on human trafficking trends before the end of 2005.

9. Several speakers informed the Commission of action taken by their Governments towards ratifying the Trafficking in Persons Protocol, including the adoption of national strategies, programmes and policies, the establishment of national mechanisms and the development of bilateral and regional frameworks and agreements to prevent trafficking in persons. Several speakers noted that victim support mechanisms, as well as measures to raise community awareness and other prevention strategies, had been introduced in their countries.

10. Many speakers called upon those States which had not yet done so to complete the ratification process and fulfil their obligations under the Trafficking in Persons Protocol. They called upon UNODC to give priority to that area, emphasizing the need to strengthen the coordination of efforts within States, as well as at the regional and the interregional levels, to prevent trafficking in persons.

11. A number of speakers noted that their countries were used as transit points for trafficking in persons. It was pointed out that such trafficking was rapidly increasing and that, in several States, it represented one of the largest sources of profit for

organized criminal groups. It was stated that the phenomenon was not confined to any region or group of States but had assumed global proportions.

12. Speakers emphasized the importance of awareness-raising activities, as well as capacity-building in civil society and broad alliances to promote initiatives to combat trafficking in persons. It was stressed that such activities should be given high priority by Governments and UNODC. Speakers also stressed the need to provide technical assistance, for example, through advisory services, specialized training and capacity-building programmes. Speakers also called on donor States to increase funding for the work of UNODC in those areas.

13. In introducing the report of the Secretary-General on the United Nations Convention against Corruption (E/CN.15/2005/9), the Deputy Executive Director of UNODC and Director of the Division for Operations referred to UNODC activities to promote the entry into force of the Convention, the preparation of a legislative guide and the provision of technical assistance for the ratification and implementation of the Convention. She underlined the need to provide support to States requiring assistance to adopt anti-corruption legislation and establish mechanisms for the implementation of the Convention. It was noted that the imbalance in the composition of the States that had ratified the Convention, in particular the absence of developed countries, needed to be redressed before the Convention entered into force.

14. Many speakers reaffirmed their support for and commitment to the United Nations Convention against Corruption, noting that it was a unique instrument, essential to efforts to fight corruption at the global level, and urging States that were not yet parties to the Convention to give priority to ratifying it. While several speakers referred to steps taken to advance the ratification process, others noted that adequate resources should be provided to UNODC to enable it to assist States, especially developing countries and countries with economies in transition, upon request.

15. Many speakers, reporting on activities undertaken in their countries to reduce the incidence of corruption, acknowledged the detrimental and destabilizing effects of corruption at the social, economic and political levels. They provided information on measures taken to improve governance and ensure transparency in the public service, on the enactment of new legislation, on the adoption of national action plans, on the establishment of anti-corruption commissions and on the strengthening of regional and international cooperation.

16. A number of speakers reported on initiatives taken at the regional and international levels to combat corruption. Reference was made to the work carried out in the framework of the Asia-Pacific Economic Cooperation (APEC), the Association of Southeast Asian Nations (ASEAN), the Organization of American States (OAS) and the Organization for Economic Cooperation and Development (OECD). Information was also provided on the organization of the global forum against corruption to be held in Brasilia from 7 to 10 June 2005.

17. The recovery and return of illegally acquired assets was highlighted by several speakers as a matter of crucial importance in the fight against corruption. They underlined that the United Nations Convention against Corruption was the only international instrument dealing with the issue of asset recovery and return in the context of corruption. Various speakers expressed the view that signatory States

should make every effort to strengthen cooperation in accordance with chapter V of the Convention, pending its entry into force.

18. Referring to the outcome of the meeting of the intergovernmental expert group to prepare a draft model bilateral agreement on disposal of confiscated proceeds of crime covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, held in Vienna from 26 to 28 January 2005, a number of speakers noted that the work of the intergovernmental expert group would promote international cooperation in the area of sharing confiscated proceeds of crime or property.

19. The work of the intergovernmental expert group was welcomed as an example of the effort of the international community to confiscate the proceeds of crime and put them to proper use. While some representatives referred to the need to continue working on the work on the draft model bilateral agreement with a view to reaching a balanced and consensual text that would take into account all the relevant concerns, others pointed out that the future model bilateral agreement should reflect the principle enshrined in article 14, paragraph 2, of the Organized Crime Convention, which stipulated that priority consideration should be given to restitution (compensation to the victims of the crime or return of the proceeds to their legitimate owners) over other asset-sharing modalities. A number of speakers noted that the future model bilateral agreement should not prejudice the principles set forth in the United Nations Convention against Corruption, especially the provisions of chapter V, on asset recovery, or the development, at a later stage, of any appropriate mechanism to facilitate the implementation of that Convention.

20. Some representatives expressed concern that the future model bilateral agreement might be of a mandatory nature. It was pointed out that the model bilateral agreement would be entirely optional, as it would be used as a resource guide for assisting States in enhancing cooperation in the area of asset-sharing.

21. Reference was made to the report of the Secretary-General on the progress made by the Intergovernmental Expert Group to Prepare a Study on Fraud, the Criminal Misuse and Falsification of Identify (E/CN.15/2005/11), prepared pursuant to Economic and Social Council resolution 2004/26 of 21 July 2004. It was noted that an information-gathering instrument (E/CN.15/2005/CRP.5) had been prepared by UNODC as follow-up to the meeting of the Intergovernmental Expert Group, held in Vienna on 17 and 18 March 2005. A number of speakers emphasized that the provision of technical assistance and assistance in capacity-building was crucial to combating fraud, including identity fraud. The Rapporteur of the Intergovernmental Expert Group presented options for further work, indicating that a study would be based on information and data received from Governments through the questionnaire that had been made available to the Commission, as well as information from individual experts and private-sector sources, gathered with the cooperation of the United Nations Commission on International Trade Law (UNCITRAL) secretariat. The study would provide an overview of the various forms of fraud, including identity fraud, and take into consideration contextual information on legitimate commercial activities and establishment of identity in different jurisdictions.

22. A number of speakers indicated that their Governments supported the work of the Intergovernmental Expert Group. They emphasized the importance of developing a sound methodology, collecting and analysing data and assessing trends and patterns of those new forms of crime, in order to inform policy decisions. The Commission was given a recent example of well-organized patterns and practices involving fraud and identity theft, through the abuse of the Internet, to fraudulently divert donations given in good faith for humanitarian assistance.

23. With regard to illicit trafficking in protected species of wild flora and fauna, it was noted that such activities posed a significant threat to the protection of the environment and in particular to endangered species. Reference was made to the report of the Secretary-General on the subject (E/CN.15/2005/10), which provided information on efforts at the national level to protect wild flora and fauna, including through more effective law enforcement. It was noted that much work remained to be done in that area.

24. Some speakers emphasized the seriousness of trafficking in flora and fauna, raising concern about the increased involvement of transnational organized criminal groups in those activities, as well as their environmental, economic and social consequences. Speakers also called for more concerted international action and cooperation to prevent trafficking in cultural property.

25. Although it was recognized that States had sovereign rights over their own biological and genetic resources, there was a call for international cooperation and implementation of the relevant international instruments, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora¹ and the Convention on Biological Diversity.² In particular, cooperation and exchange of information with developing countries and relevant international organizations were seen as crucial steps to combating and preventing those illegal activities. It was stressed that there was a need for a more comprehensive approach that would include awareness-raising and education in fighting trafficking in flora and fauna.

26. A number of speakers expressed their concern over the increasing rate of kidnapping, stressing that such actions were linked with organized criminal groups and terrorist groups. It was emphasized that kidnapping was increasingly being used to fund terrorist activities and that the practice had reached an alarming level in some countries, where it had devastating effects on the victims and their families.

27. One speaker, describing in detail the nature and extent of the problem of kidnapping in his country, reported that, due to effective national responses, the number of kidnapping cases had been significantly reduced. That had been achieved as a result of a comprehensive approach that included enhancing law enforcement capabilities, reforming the legislative framework, raising awareness and building public trust and promoting international cooperation, including the exchange of information and knowledge. Several speakers expressed their appreciation for the work of UNODC, with the support of Colombia, in developing a manual on countering kidnapping.

¹ United Nations, *Treaty Series*, vol. 993, No. 14537.

² *Ibid.*, vol. 1760, No. 30619.