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Commission on Crime Prevention and Criminal Justice

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Agenda item 3

Thematic discussion on protection against illicit trafficking in cultural property

Costa Rica:* draft resolution

The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the adoption of the following draft resolution:

Prevention of and protection and international cooperation against trafficking in cultural property

The Economic and Social Council,

Recalling General Assembly resolutions 58/17 of 3 December 2003, 61/52 of 4 December 2006 and 64/78 of 7 December 2009 on the return or restitution of cultural property to the countries of origin, as well as other relevant United Nations resolutions,

Reaffirming its resolution 2004/34 of 21 July 2004, entitled “Protection against trafficking in cultural property”, resolution 2003/29 of 22 July 2003, entitled “Prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property”, and resolution 2008/23 of 24 July 2008, entitled “Protection against trafficking in cultural property”,

Recalling the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,¹ which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment

* On behalf of the States Members of the United Nations that are members of the Group of Latin American and Caribbean States.

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.



of Offenders and welcomed by the General Assembly in its resolution 45/121 of 14 December 1990,

Emphasizing the importance for States of protecting and preserving their cultural heritage in accordance with relevant international instruments such as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the United Nations Educational, Scientific and Cultural Organization on 14 November 1970, the Convention on Stolen or Illegally Exported Cultural Objects, adopted at Rome on 24 June 1995 by the International Institute for the Unification of Private Law, and the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954, and the two Protocols thereto of 14 May 1954 and 26 March 1999, as well as regional instruments such as the San Salvador Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations of 16 June 1976,

Reiterating the significance of cultural property as part of the common heritage of humankind and as unique and important testimony of the culture and identity of peoples, and the necessity of protecting it, and reaffirming in that regard the need to strengthen international cooperation in preventing, prosecuting and punishing all aspects of trafficking in cultural property,

Expressing its concern regarding the conception of cultural assets as mere merchandise or curiosities, which not only deprives such assets of their cultural, historical and symbolic essence but also encourages activities that lead to their loss, destruction, removal, theft and trafficking,

Observing that cultural property is especially transferred through licit markets, such as auctions, including through the Internet, which necessitates effective regulation of such markets so as to prevent the transfer of ownership of cultural property acquired illicitly,

Conscious of the importance of promoting partnerships between the private and public sectors, as well as mechanisms for the restitution of trafficked cultural property, bearing in mind the role of technical assistance,

Recalling the deliberations of the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Salvador, Brazil, from 12 to 19 April 2010, and the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, in which the Congress welcomed the decision of the Commission on Crime Prevention and Criminal Justice to engage in a thematic debate on protection against trafficking in cultural property and the recommendations made by the open-ended intergovernmental expert group on protection against trafficking in cultural property at its meeting held in Vienna from 24 to 26 November 2009, and in which it invited the Commission to conduct appropriate follow-up, including exploring the need for guidelines for crime prevention with respect to trafficking in cultural property,

Recalling also that in the Salvador Declaration the Twelfth Congress urged States that had not yet done so to develop effective legislation to prevent, prosecute and punish trafficking in cultural property in any of its forms and to strengthen international cooperation and technical assistance in this area, including the

recovery and return of cultural property, bearing in mind the existing relevant international instruments, including the United Nations Convention against Transnational Organized Crime, where appropriate,

Alarmed at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property, and underscoring in that regard the potential utility of the United Nations Convention against Transnational Organized Crime in reinforcing international cooperation in the fight against trafficking in cultural property, as well as its illegal removal from the countries of origin, through, inter alia, mutual legal assistance, extradition and the recovery of the proceeds of crime,

Wishing to raise awareness among all States regarding the clandestine nature of the theft and pillaging of cultural property, which makes it impossible to demonstrate the circumstances, place, time and manner of the theft, and recognizing in that regard the importance of providing the most extensive international cooperation, bearing in mind the nature of the international instruments for protection against trafficking in cultural property,

Recognizing the need, where appropriate, to strengthen and fully implement mechanisms for the return or restitution of cultural property that has been stolen or trafficked, and for its protection and preservation,

1. *Takes note with appreciation* of the report of the Secretary-General on protection against trafficking in cultural property;²

2. *Welcomes* the report of the meeting of the expert group on protection against trafficking in cultural property,³ held in Vienna from 24 to 26 November 2009 in accordance with Economic and Social Council resolution 2008/23 of 24 July 2008, and invites Member States to provide adequate follow-up to its recommendations on prevention, criminalization, cooperation, awareness-raising, capacity-building and technical assistance, and use of new technologies;

3. *Requests* the United Nations Office on Drugs and Crime, in accordance with its mandate and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and other competent intergovernmental organizations, to provide appropriate follow-up to the recommendations of the expert group, and to convene at least one additional expert group meeting to submit to the Commission on Crime Prevention and Criminal Justice, at its twenty-first session, operational proposals for implementing the expert group's recommendations regarding the aspects of prevention (including effective measures to prevent the transfer of illicitly acquired cultural property), criminalization (including the possibilities for the seizure and confiscation of trafficked cultural property), cooperation (including the provision of the most extensive possible mutual legal assistance for purposes of protection against trafficking in cultural property) and awareness-raising and capacity-building (including improvement of security measures in premises other than museums that contain cultural property, the preparation of inventories of cultural property and of databases concerning stolen property, the exchange of best practices regarding awareness-raising campaigns on

² E/CN.15/2010/4.

³ UNODC/CCPCJ/EG.1/2009/2.

the need to protect cultural heritage, and the application of export licences by the customs services authorizing the circulation of cultural property), and invites Member States and other donors to provide extrabudgetary contributions for those purposes in accordance with the rules and procedures of the United Nations;

4. *Urges* Member States and relevant institutions, as appropriate, to strengthen and fully implement measures and mechanisms to prevent the transfer of illicitly acquired cultural property and to strengthen international cooperation, including mutual legal assistance, in order to combat trafficking in cultural property, including trafficking committed through the use of the Internet, and to facilitate the recovery and return or restitution of cultural property;

5. *Urges* Member States to protect cultural property and prevent trafficking in such property by introducing appropriate legislation, including, in particular, procedures for the seizure, return or restitution of cultural property, promoting education, launching awareness-raising campaigns, locating and inventorying such property, adopting adequate security measures, developing the capacities and human resources of monitoring institutions such as the police, customs services and the tourism sector, involving the media and disseminating information on the theft and pillaging of cultural property;

6. *Invites* Member States to review their legal frameworks in order to provide the fullest cooperation for the effective protection of cultural property obtained from clandestine activities, which make it impossible for countries of origin to provide concrete and timely data related to the illicit obtaining and export of cultural property and the possible commission of related crimes, and also hinder the development of comprehensive and updated records of such property;

7. *Encourages* Member States to adopt measures aimed at increasing transparency in the activities of traders in cultural property and to promote codes of conduct for the private sector, such as the International Code of Ethics for Dealers of Cultural Property adopted by the United Nations Educational, Scientific and Cultural Organization;

8. *Urges* Member States to continue to strengthen cooperation and mutual legal assistance for the prevention and prosecution of crimes against cultural property that forms part of the cultural heritage of peoples, and, in that connection, invites them to ratify and implement the relevant international instruments, including the United Nations Convention against Transnational Organized Crime, as appropriate;

9. *Invites* Member States to classify trafficking in cultural property as a serious crime;

10. *Invites* the Conference of the States Parties to the United Nations Convention against Corruption and to the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider the use of such international legal instruments in strengthening the fight against trafficking in cultural property;

11. *Requests* the United Nations Office on Drugs and Crime, in accordance with its mandate and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and other competent intergovernmental organizations, to develop specific guidelines for crime prevention with respect to

trafficking in cultural property, including the criterion of due diligence when acquiring a cultural object;

12. *Encourages* the United Nations Office on Drugs and Crime to continue to develop its relations with the cooperative network established between the United Nations Educational, Scientific and Cultural Organization, the International Council of Museums, the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law and the World Customs Organization in the areas of trafficking in cultural property and its return or restitution;

13. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its twenty-first session on the implementation of the present resolution.
