



# Eleventh United Nations Congress on Crime Prevention and Criminal Justice

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## Draft report

*Rapporteur-General*: Mr. Eugenio Maria **Curía** (Argentina)

### Addendum

## Consideration of agenda items in plenary meetings and by sessional bodies and action taken by the Congress

### A. Effective measures to combat transnational organized crime (agenda item 3)

#### Proceedings

1. At its 1st plenary meeting, on 18 April 2005, the Congress allocated to the plenary agenda item 3, entitled “Effective measures to combat transnational organized crime”. The Congress considered the item at its 2nd, 3rd and 4th plenary meetings, on 18 and 19 April. For its consideration of the item, the Congress had before it the following documents:

(a) Working paper prepared by the Secretariat on effective measures to combat transnational organized crime (A/CONF.203/4 and Corr.1);

(b) Report of the High-level Panel on Threats, Challenges and Change entitled “A more secure world: our shared responsibility” (A/59/565 and Corr.1);

(c) Report of the Secretary-General entitled “In larger freedom: towards development, security and human rights for all” (A/59/2005);

(d) Discussion guide (A/CONF.203/PM.1 and Corr.1);

(e) Reports of the regional preparatory meetings for the Eleventh Congress (A/CONF.203/RPM.1/1, A/CONF.203/RPM.2/1, A/CONF.203/RPM.3/1 and Corr.1 and A/CONF.203/RPM.4/1).

2. At the 2nd plenary meeting, on 18 April, the President of the Congress made an introductory statement. The Executive Secretary of the Congress also made an



introductory statement. Statements were made by the representatives of Thailand, Indonesia, El Salvador, Sweden and China.

3. At the 3rd plenary meeting, on 19 April, the Executive Secretary of the Congress made an introductory statement. The observer for the United Nations Interregional Crime and Justice Research Institute (UNICRI) made a progress report on a joint UNICRI/UNODC draft study, which was presented to the Congress for comments. Statements were made by the representatives of Germany, Egypt, Bangladesh, Malaysia, the Russian Federation, the Philippines, Afghanistan, Japan, Turkey, Italy, Belgium, Finland, Kuwait and Algeria.

4. At the 4th plenary meeting, on 19 April, statements were made by the representatives of the United Kingdom, Canada, Cuba, Australia, the United Arab Emirates, Nigeria, Argentina, Iran (Islamic Republic of), Mauritania, Morocco, Norway, the Republic of Korea, Sri Lanka, the Gambia, Brazil, India and Benin. Statements were also made by the observers for the International Federation of Red Cross and Red Crescent Societies, the League of Arab States, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the International Criminal Police Organization (Interpol), the World Society of Victimology, the Japan Federation of Bar Associations and Penal Reform International.

#### **General discussion**

5. The Executive Secretary of the Congress began the discussion by referring to a UNODC initiative against trafficking in persons, which highlighted the stark realities of transnational organized crime. He informed the Congress of the progress made in recent years in efforts to combat such crime, as evidenced by the rapid negotiation and entry into force of the United Nations Convention against Transnational Organized Crime and two of its three Protocols. He highlighted the importance of the universal ratification and effective implementation of those instruments. He recalled the recommendations contained in the report of the High-level Panel on Threats, Challenges and Change (A/59/565 and Corr.1) and invited the Congress to consider the report in its deliberations. He also referred to the first session of the Conference of the States Parties to the United Nations Convention against Corruption and emphasized the important role that the Congress could play in providing guidance to it.

6. It was generally agreed that transnational organized crime was one of the most serious security challenges facing the international community. Representatives noted its devastating effect on the people's lives and on socio-economic development in all regions of the world. Several speakers referred to the conclusion of the High-level Panel on Threats, Challenges and Change that transnational organized crime constituted one of the six clusters of threats that the international community must be concerned with. The speakers also drew the attention of the Congress to some of the impediments identified by the High-level Panel and possible ways to overcome them.

7. A number of speakers highlighted the critical importance of the Organized Crime Convention and its Protocols in the fight against transnational organized crime. Several speakers stressed that universal adherence to the Convention and its protocols was necessary for the full potential of those instruments to be realized. Of

equal importance for many speakers was the need for States to fully implement those instruments by adopting or amending the relevant legislation. Several speakers noted that organized crime was constantly expanding and had diverse manifestations. They emphasized the need for States to follow a similarly broad approach in dealing with organized crime, expanding their efforts to combat such crime to cover a wide range of criminal activity, including newer forms of criminal activity such as illegal logging, smuggling of goods, illegal trafficking in hazardous waste, illegal fishing activities, sea piracy, offences against maritime security and the environment, and theft of and trafficking in cultural property.

8. Several speakers focused on those forms of transnational organized crime which were especially relevant to their jurisdiction or region. Many speakers commented on the problem of trafficking in human beings and the need to enhance efforts to combat that particularly appalling crime. Speakers referred to the need for effective legislation that included provisions on particular offences. Some delegates noted that efforts to counter trafficking in persons should place equal emphasis on the demand side and on the supply side of the problem. A number of participants emphasized the need for States to take steps to implement fully those provisions of the Organized Crime Convention and those recommendations of the Financial Action Task Force on Money Laundering relating to the financing of terrorism and to money-laundering. They also stressed the need to provide for the confiscation of assets and for repatriation in corruption cases. Many participants stated that cybercrime and the use of technology by criminal groups posed serious problems. They highlighted the need for effective specialized legislation to deal with those problems. Some suggested that consideration be given to finding out how best to address those problems at the international level. Several speakers commented on the harm to a nation's heritage resulting from theft of and trafficking in cultural property. Some speakers noted that, despite the considerable progress achieved through initiatives at the national and international levels, drug trafficking had continued to pose a serious destabilizing threat in many countries. It was suggested that the issue of a convention on explosive substances be revisited. Many delegates referred to the linkage between transnational organized crime and terrorism. They noted that criminals used terrorist methods to achieve criminal goals and terrorists used the profits of crime to finance terrorism. They called for effective action against terrorism including the successful conclusion of the negotiation of the comprehensive convention against international terrorism. Some participants also emphasized the important role played by identity fraud in terrorism and organized crime. The ongoing work of UNODC on countering both fraud and the criminal misuse and falsification of identity was welcomed.

9. It was noted that countering transnational organized crime required an integrated global response that, in turn, required effective coordination at the national level, as well as at the regional and international levels. Reference was made to the work 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. Delegates welcomed the draft agreement recommended by the expert group for consideration by the Commission on Crime Prevention and Criminal Justice. Some representatives raised the issue of the possibility and desirability of negotiating additional

international legal instruments, such as a global convention on extradition and mutual legal assistance. While recognizing the considerable progress made during the previous few years in the development of an effective network of bilateral, regional and multilateral instruments for cooperation and the rendering of assistance, several participants noted that much work remained to be done to make those instruments effective in practice. Several speakers advocated the complementary use of informal cooperation measures, including use of police-to-police and prosecutor-to-prosecutor channels and arrangements. The need for effective information-sharing was also highlighted. Some delegates underscored the need for more modern, flexible legislation on mutual legal assistance and extradition, whereby having in place a treaty might not be a precondition for rendering assistance. Reference was made to the increasing number of smaller groups involved in transnational organized crime. It was noted that, whereas the main concern in the past had been the small number of large offences, in future there might be a large number of smaller offences. Such a development would pose an entirely different challenge to mutual legal assistance, extradition and other forms of cooperation.

10. Many participants reported on action taken at the national level to combat organized crime. Several spoke of the development of comprehensive plans and national strategies for action against such crime. Adopted legislative measures, including provisions on criminalization, were also described. Some speakers noted the importance of having effective, proportional and dissuasive criminal penalties that could be applied to offences involving such crime. A number of participants highlighted training and education programmes that had been conducted especially for law enforcement personnel, prosecutors and judges. Others described statistical studies and research that had been carried out. It was reported that some States had established centres or other entities specialized in fighting organized crime, while others had reorganized their law enforcement and intelligence-gathering infrastructure to ensure a more coordinated approach to dealing with that problem. Several delegates underscored the need for improving programmes for the protection of witnesses and victims in cases involving organized crime and described the legal measures that had been adopted in their countries for that purpose. A number of participants outlined efforts in their countries to improve international cooperation. Some reported on the current status of bilateral and multilateral instruments on cooperation. During the discussion about efforts to combat organized crime and improve international cooperation, participants described regional initiatives and best practices.

11. A large number of speakers underscored the importance of providing technical assistance and building capacity to enable developing countries and countries with economies in transition to implement fully the Organized Crime Convention and its Protocols and other relevant instruments and measures to combat transnational organized crime. Many of those speakers expressed their appreciation for the efforts of UNODC to date in providing and implementing assistance programmes in various countries. They called for more support to be given to UNODC through increased financial contributions. Representatives of donor countries reported on various technical assistance programmes that were in place, which covered a range of issues, including countering trafficking in persons, police training and general programmes to develop capacity in areas concerning law and justice. It was noted that countries that had suffered natural disasters or were emerging from conflict

were particularly vulnerable to organized crime. Several speakers called on the international community to pay special attention to the particular needs of such States. Some representatives noted the link between organized crime and poverty and called for an overall increase in the financial support provided to developing countries and to countries with economies in transition.

12. Several delegates noted that the success of efforts to prevent and combat transnational organized crime was dependent on respect for the rule of law and on the establishment and maintenance of an effective law enforcement and criminal justice system. Further, some delegates stressed that efforts to respond to the threat of transnational organized crime must always ensure respect for human rights. Some participants emphasized the effectiveness of a multifaceted strategy involving the private sector and civil society in the fight against organized crime.

13. A number of suggestions were made to improve measures for preventing and combating transnational organized crime, including raising awareness of the dangers posed by such crime, establishing or strengthening mechanisms to facilitate information exchange, making increased use of modern technology to enhance law enforcement and criminal justice capabilities and launching campaigns to inform potential victims, in particular victims of trafficking in persons.

#### **Conclusions and recommendations**

14. During the discussion on effective measures to combat transnational organized crime, there was agreement on a number of conclusions and recommendations.

15. It was recommended that a multifaceted strategy should be employed in the fight against transnational organized crime; and the strategy should take into account the broader socio-economic context. It was noted that transnational organized crime posed a serious threat to national security and stability. In order to be successful, efforts to prevent and combat such crime must safeguard the rule of law and ensure respect for human rights.

16. One form of organized crime that was of particular concern was trafficking in persons. There was a need to take effective measures to prevent such trafficking, as it had a devastating effect on its victims.

17. There was broad consensus on the need to ensure the universal ratification and full implementation of the international instruments against transnational organized crime and the effective functioning of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, inter alia, by making certain that adequate funding was made available from the regular budget of the United Nations.

18. International cooperation was essential to efforts to prevent and combat transnational organized crime.

19. The need for technical assistance for achieving both goals was underscored and, in this connection, the provision of support, including in the form of additional financial contributions, for the activities of UNODC was strongly encouraged.