



# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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## Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its sixth session, held in Vienna from 15 to 19 October 2012

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## I. Resolutions and decisions adopted by the Conference

### A. Resolutions

1. At its sixth session, held in Vienna from 15 to 19 October 2012, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime adopted the following resolutions:

#### Resolution 6/1

### **Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

*The Conference of the Parties to the United Nations Convention against Transnational Organized Crime,*

*Recalling* its resolution 5/1 of 22 October 2010, entitled “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”,

*Mindful* of the importance of promoting universal ratification and full implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,<sup>1</sup>

*Reaffirming* the importance of the Convention and the Protocols thereto as the main tools available to the international community to fight transnational organized crime,

*Acknowledging* the efforts made by States parties in implementing the Convention and the Protocols thereto, and recognizing that more efforts are necessary to make full and effective use of those instruments,

*Stressing* the need for full and effective implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons,<sup>2</sup> and expressing the view that the Plan of Action will, inter alia, enhance cooperation and better coordination of efforts to fight trafficking in persons and to fully implement the Convention and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention,

*Noting with appreciation* the establishment by the Secretary-General of the United Nations system task force on transnational organized crime and drug trafficking as threats to security and stability, for the purpose of developing within the United Nations system an effective and comprehensive approach to transnational organized crime and drug trafficking, and reaffirming the crucial role of Member States as reflected in the Charter of the United Nations,

*Noting* the relevance, as a further common effort by the international community to tackle transnational organized crime, of the high-level briefing for

<sup>1</sup> United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

<sup>2</sup> General Assembly resolution 64/293.

Member States on challenges in the fight against transnational organized crime and drug trafficking, held in New York on 7 February 2012,

*Recalling* that the theme of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice will be “Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation”,

*Acknowledging* the relevance of the implementation of the Convention and the Protocols thereto within the framework of United Nations rule of law activities, as well as in view of the elaboration of the United Nations development agenda beyond 2015,

*Noting with concern* the emergence of new forms and dimensions of transnational organized crime and reaffirming that the Convention, as a global instrument with wide adherence, offers a broad scope for cooperation to address existing and emerging forms of transnational organized crime,

*Greatly concerned* by the negative impact of organized crime on human rights, the rule of law, security and development, as well as by the sophistication, diversity and transnational aspects of organized crime and its links with other criminal and, in some cases, terrorist activities,

*Recognizing* that the Convention offers expanded opportunities for international cooperation in various areas of the fight against transnational organized crime and has in this regard a potential that is yet to be fully explored,

*Recognizing also* that technical assistance is essential in order to achieve universal and effective implementation of the Convention and the Protocols thereto,

*Recognizing further* the need for accurate information on global crime trends and patterns, including on new and emerging forms of organized crime, and the need to improve the quality, scope and completeness of data relating to organized crime,

*Taking note with appreciation* of the results of the pilot review programme, which involved a group of volunteer States parties from different regional groups, the evaluation of that exercise and the completion of the comprehensive self-assessment checklist (“omnibus tool”),

*Welcoming* the development by the United Nations Office on Drugs and Crime, in accordance with Conference resolutions 5/1 and 5/8 of 22 October 2010, of the digest of organized crime cases, the practical guide to facilitate the drafting, transmission and execution of requests for extradition and mutual legal assistance pursuant to articles 16 and 18 of the Convention and the practical guide to facilitate international and interregional cooperation for the purposes of confiscation within the framework of the fight against transnational organized crime,

*Acknowledging* the work accomplished by the open-ended intergovernmental working group on the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,

1. *Notes with appreciation* that the number of parties to the United Nations Convention against Transnational Organized Crime<sup>3</sup> has reached one hundred and seventy-two, reiterates its call to Member States that have not yet done so to consider ratifying or acceding to the Convention and the Protocols thereto<sup>4</sup> and urges States parties to fully implement the Convention and the Protocols thereto;
2. *Encourages* the United Nations Office on Drugs and Crime, in consultation with Member States, to continue to promote the use of the Convention and the Protocols thereto to address the threats posed by transnational organized crime, particularly with respect to the various forms of crime within the scope of the Convention that are of common concern to Member States;
3. *Underlines* the need for the urgent adoption of a mechanism for the review of implementation of the Organized Crime Convention and the Protocols thereto, aimed at assisting States parties in the implementation of the Convention and the Protocols thereto, and urges Member States to continue to be actively engaged in this endeavour, on the basis of the work already accomplished by the open-ended intergovernmental working group on the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;
4. *Requests* the United Nations Office on Drugs and Crime, in consultation with Member States and in cooperation with the institutes of the United Nations crime prevention and criminal justice programme network, to continue its activities to strengthen the collection, analysis and reporting of accurate, reliable and comparable data on organized crime trends and patterns, in accordance with article 28 of the Convention;
5. *Also requests* the United Nations Office on Drugs and Crime to continue raising awareness of the negative impact of organized crime, through advocacy campaigns and other measures, including outreach to and partnerships with civil society and the private sector, commends the Office for its public service announcement on organized crime and ongoing media campaign and encourages States parties to support that campaign;
6. *Further requests* the United Nations Office on Drugs and Crime to brief Member States on the activities carried out by the United Nations system task force on transnational organized crime and drug trafficking as threats to security and stability;
7. *Requests* the United Nations Office on Drugs and Crime to continue providing technical assistance in order to support and complement national, regional and thematic programmes and activities based on the needs and priorities of Member States in combating transnational organized crime;
8. *Encourages* the United Nations Office on Drugs and Crime to make use of the technical assistance tools that have been developed, such as handbooks, digests and legal tools, and continue developing new tools, as appropriate, with a view to improving the capacity of States to implement the Convention and the Protocols thereto, and requests the Office to promote and disseminate such tools and

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<sup>3</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>4</sup> *Ibid.*, vols. 2237, 2241 and 2326, No. 39574.

to continue facilitating the exchange of experiences and good practices among practitioners, including through the Sharing Electronic Resources and Laws against Organized Crime knowledge management portal and an online digest newsletter;

9. *Acknowledges* the ongoing efforts made by the United Nations Office on Drugs and Crime, in consultation with Member States, to develop an integrated programme approach comprising thematic and regional programmes for the fulfilment of its normative and technical assistance mandate, and encourages States parties to draw on technical assistance activities included in the Office's regional programmes to increase regional cooperation in combating transnational organized crime;

10. *Welcomes* the activities carried out by the Working Group on International Cooperation and requests the United Nations Office on Drugs and Crime, in conjunction with Member States, to continue to establish networks and other mechanisms to facilitate formal and informal cooperation, including through regional and interregional meetings and exchanges of experience among practitioners, with a view to taking stock of and sharing knowledge acquired through the above-mentioned instruments and mechanisms and the Working Group;

11. *Also welcomes* the substantive debate and activities carried out by the Working Group on Trafficking in Persons, the Working Group on the Smuggling of Migrants and the Working Group on Firearms and underlines their contribution to facilitating the full implementation of the three Protocols supplementing the United Nations Convention against Transnational Organized Crime;

12. *Decides* that the mandates for the Working Group on Trafficking in Persons should be continued and that its areas for future work should reflect, as appropriate, the recommendations contained in the report of the Working Group,<sup>5</sup> welcomes the United Nations Office on Drugs and Crime issue paper on abuse of a position of vulnerability and other means within the definition of trafficking in persons and requests the Secretariat to continue its work on the analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime,<sup>6</sup> by preparing similar technical papers;

13. *Requests* the United Nations Office on Drugs and Crime to increase its inter-agency coordination work concerning efforts to combat trafficking in persons, especially regarding the work of the Inter-Agency Coordination Group against Trafficking in Persons, and to promote the use of new technologies to raise awareness of the issue of trafficking in persons, through activities such as virtual teaching and the involvement of adolescents and young people in the development of prevention strategies in order to keep them mindful of the responsible use of information and communication technologies;

14. *Welcomes* the outcomes of the joint discussion on trafficking in cultural property of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation, held at its sixth session, subject to the conditions noted in the report by the co-chairs, endorses the recommendations of

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<sup>5</sup> CTOC/COP/WG.4/2011/8, paras. 46-51.

<sup>6</sup> United Nations, *Treaty Series*, vol. 2237, No. 39574.

the joint discussion of the two working groups,<sup>7</sup> encourages Member States and the Secretariat to conduct further work on the matter, and requests the Secretariat to bring the specific guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property, after their finalization, to the attention of the Conference for the purpose of implementing the Convention;

15. *Decides* to continue to exchange information on experiences and practices with regard to the application of the Convention to existing and new forms and dimensions of transnational organized crime within the scope of the Convention and to the raising of cross-cutting legal issues that are of common concern to States parties and, to that end, requests the Working Group on International Cooperation to exchange information on experiences and practices in this field;

16. *Welcomes* the report on technical assistance provided to States in the application of the Convention to new forms and dimensions of transnational organized crime,<sup>8</sup> concerning cybercrime, maritime piracy, environmental crime, trafficking in cultural property, trafficking in organs and fraudulent medicines, encourages States parties to further strengthen their domestic laws, as appropriate, to prevent and combat new forms and dimensions of transnational organized crime, including when committed at sea, in a manner consistent with the Convention, and requests the United Nations Office on Drugs and Crime to support States parties with the relevant technical assistance;

17. *Draws* the attention of States parties to article 31 of the Convention and encourages them to develop appropriate strategies, policies and measures aimed at the prevention of transnational organized crime;

18. *Encourages* relevant international and regional organizations and civil society, including non-governmental organizations and the private sector, to strengthen their cooperation and work with States parties to the Convention and the Protocols thereto in order to achieve their full implementation;

19. *Urges* States parties to make adequate voluntary contributions to the account established in accordance with article 30, paragraph 2 (c), of the Convention for the provision of technical assistance;

20. *Also urges* States parties to promote, within the United Nations system, a strategic, proactive and holistic response to transnational organized crime, and requests the Secretariat to submit to the Conference, at its seventh session, a report on measures taken to implement the present resolution and to mainstream responses to transnational organized crime into the work of the United Nations system;

21. *Invites* Member States and other donors to provide extrabudgetary resources in accordance with the rules and procedures of the United Nations.

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<sup>7</sup> To be issued as CTOC/COP/WG.2/2012/5-CTOC/COP/WG.3/2012/6.

<sup>8</sup> CTOC/COP/2012/7.

**Resolution 6/2****Promoting accession to and implementation 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**

*The Conference of the Parties to the United Nations Convention against Transnational Organized Crime,*

*Recalling* the functions assigned to it in article 32 of the United Nations Convention against Transnational Organized Crime,<sup>9</sup> reaffirming its decision 4/6 of 17 October 2008 and concerned by the increased levels of harm and violence that transnational criminal organizations generate in some regions of the world as a result of the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition,

*Reaffirming* its resolution 5/4 of 22 October 2010, in which the Conference requested States to consider the adoption or strengthening of comprehensive and efficient measures to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, to consider ways to strengthen the collection and sharing of information consistent with their respective legal and administrative systems, in order to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, to strengthen their mechanisms and strategies for border control in order to prevent illicit trafficking in firearms, and to afford each other the broadest possible bilateral, regional and international cooperation so as to facilitate the tracing of firearms and the investigation and prosecution of firearms-related offences, in conformity with their national laws,

*Noting* that reducing the illicit manufacturing of and trafficking in firearms is one of the major components of the efforts to reduce the violence that accompanies the activities of transnational organized criminal groups,

*Expressing its conviction* that there is a need to strengthen international cooperation to combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition,

*Worried* over the phenomenon of the free and open dissemination, in violation of the requirements 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,<sup>10</sup> of manufacturing and/or repairing techniques for firearms, including home-made arms, as well as their parts, components and ammunition, which facilitates access to such arms on the part of criminal networks,

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<sup>9</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>10</sup> *Ibid.*, vol. 2326, No. 39574.



*Recalling* that the Convention and, in particular, the Firearms Protocol are among the principal global legal instruments to combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition,

*Noting with appreciation* the increasing number of accessions to the Firearms Protocol,

*Noting* the common themes and nature of other instruments with respect to the Convention and its Firearms Protocol, such as the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects<sup>11</sup> and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons,<sup>12</sup> as well as regional legal instruments,

*Taking note* of the outcome document of the United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York from 27 August to 7 September 2012, and encouraging States that have not done so to consider ratifying or acceding to the international instruments against terrorism and transnational organized crime, including the Convention and the Protocols thereto, in particular, the Firearms Protocol,

*Reaffirming* that one of the primary purposes of the Conference is to improve the capacity of States parties to the Firearms Protocol to combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and that the Conference should spearhead international efforts in that regard,

*Noting with appreciation* the assistance provided by the United Nations Office on Drugs and Crime to States, upon request, through its global programme on firearms,

*Noting* that the Firearms Protocol recognizes verifiable lawful purposes, such as hunting, sport shooting, evaluation, exhibitions or repairs, and reaffirming the obligation of States parties to seek support and cooperate to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and acknowledging that this cooperation is facilitated through the recognition of such lawful purposes,

1. *Expresses its appreciation* for the work of the Working Group on Firearms at its meeting held in Vienna on 21 and 22 May 2012 and takes note of the recommendations contained in its report;<sup>13</sup>

2. *Invites* States that have not yet done so to consider becoming parties to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations

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<sup>11</sup> *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 9-20 July 2001 (A/CONF.192/15)*, chap. IV, para. 24.

<sup>12</sup> A/60/88 and Corr.2, annex; see also General Assembly decision 60/519.

<sup>13</sup> CTOC/COP/2012/6.

Convention against Transnational Organized Crime,<sup>14</sup> and to fully implement its provisions;

3. Urges States parties to the Firearms Protocol to harmonize their national legislation in a manner consistent with the Protocol, develop programmes of action to implement the Protocol, provide to the Secretariat full and up-to-date information on their national body or single point of contact and make use of the online directory of competent national authorities designated by States under the Firearms Protocol;

4. *Requests* the United Nations Office on Drugs and Crime, in order to support ratification of, accession to and the implementation of the United Nations Convention against Transnational Organized Crime<sup>15</sup> and its Firearms Protocol, to promote knowledge- and awareness-raising activities, to assist Member States, upon request, in the adoption of national laws and strategies on firearms, to continue to facilitate, whenever possible, technical assistance to States consistent with needs identified by those Member States and to promote inter-agency and international cooperation;

5. *Also requests* the United Nations Office on Drugs and Crime to continue developing technical assistance tools, in particular in the areas identified by the Working Group on Firearms, in close consultation with Member States and, where appropriate, drawing on the expertise of the International Criminal Police Organization (INTERPOL) according to its statutory rules;

6. *Further requests* the United Nations Office on Drugs and Crime, through its global programme on firearms, to assist Member States, upon request, in strengthening their capacities to investigate and prosecute illicit manufacturing of and trafficking in firearms and related forms of transnational organized crime, inter alia, through practical workshops and exchanges of experience and direct contact among investigators and prosecutors on the application of the Convention and its Firearms Protocol;

7. *Takes note* of the information gathered so far by the United Nations Office on Drugs and Crime in carrying out the study asked for by the Conference in its resolution 5/4 of 22 October 2010, requests the United Nations Office on Drugs and Crime to improve methodology, in close consultation with Member States, and to complete the study in accordance with the given mandate, for consideration by the Conference at its seventh session, and calls upon States to participate in and contribute to the study, as appropriate;

8. *Invites* States to consider making use of the Model Law against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition as a tool of technical assistance, inter alia, for accession, ratification and implementation of the Firearms Protocol, and requests the United Nations Office on Drugs and Crime to disseminate the Model Law in the six official languages of the United Nations;

9. *Requests* the Working Group on Firearms to continue advising and assisting the Conference in the implementation of its mandate with regard to the

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<sup>14</sup> United Nations, *Treaty Series*, vol. 2326, No. 39574.

<sup>15</sup> *Ibid.*, vol. 2225, No. 39574.

Firearms Protocol in accordance with that resolution, and invites the Working Group to consider practical proposals for implementing the recommendations formulated at its meeting held on 21 and 22 May 2012;

10. *Encourages* States, through the Working Group to present their views and comments on the implementation of the Firearms Protocol, including those relating to factors that may impede accession, ratification or implementation, as well as on its strong points, good practices and progress made with its application, with a view to achieving closer cooperation on preventing, combating and eradicating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition;

11. *Decides* that the Working Group shall hold at least one intersessional meeting and encourages the Secretariat to schedule the meeting or meetings in proximity to other relevant meetings, with a view to making the most efficient use of available resources;

12. *Requests* the Secretariat to inform the Working Group about: (a) the activities of the United Nations Office on Drugs and Crime to assist the Conference in promoting and supporting the implementation of the Firearms Protocol, (b) coordination with other relevant international and regional organizations, (c) best practices in the areas of training and capacity-building and (d) awareness-raising strategies to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition;

13. *Also requests* the Secretariat to support the Working Group in the performance of its functions;

14. *Decides* that the Secretariat, in cooperation with the Chair of the Working Group on Firearms, shall prepare a report on the activities of the Working Group, to be submitted to the Conference at its seventh session;

15. *Invites* States and other donors to provide extrabudgetary resources for the purposes outlined in the present resolution in accordance with the rules and procedures of the United Nations.

### **Resolution 6/3**

## **Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime**

*The Conference of the Parties to the United Nations Convention against Transnational Organized Crime,*

*Recalling* article 32 of the United Nations Convention against Transnational Organized Crime,<sup>16</sup> in which the Conference of the Parties to the United Nations Convention against Transnational Organized Crime was established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention and the Protocols thereto, including the Protocol against the Smuggling of Migrants by Land, Sea and Air,

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<sup>16</sup> Ibid.

supplementing the United Nations Convention against Transnational Organized Crime,<sup>17</sup>

*Recalling also* its resolution 5/3 of 22 October 2010,

*Reaffirming* the importance of the Smuggling of Migrants Protocol as the primary international legal instrument to combat the smuggling of migrants and related conduct, as defined in the Protocol,

*Underscoring* the supplementary relationship of the Smuggling of Migrants Protocol to the Convention and the fact that effective implementation of the Protocol relies in part on States parties implementing their legal obligations under the Convention,

*Acknowledging* the importance of the recent work by regional initiatives to combat the smuggling of migrants, including the Fourth Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, held in Bali, Indonesia, in March 2011,

*Welcoming* the conclusions of the international conference entitled “Migrant smuggling: challenges and progress in implementing the Protocol against the Smuggling of Migrants by Land, Sea and Air”, held in Mexico City in April 2012,

*Recalling* that, in its resolution 5/3, the Conference established an open-ended intergovernmental interim working group on the smuggling of migrants and decided that the working group, inter alia, should discuss experiences and practices with regard to the implementation of the Smuggling of Migrants Protocol,

1. *Urges* Member States that have not yet done so to consider ratifying or acceding to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;<sup>18</sup>

2. *Calls upon* States parties to continue to review and, as appropriate, strengthen their relevant legislation, including criminal legislation, and establish as criminal offences the acts covered by the Smuggling of Migrants Protocol and the United Nations Convention against Transnational Organized Crime,<sup>19</sup> including by introducing appropriate sanctions commensurate with the nature and gravity of the offence;

3. *Urges* States parties to adopt and implement appropriate measures, including legislation, if necessary, to protect smuggled migrants from violence, discrimination, torture or other cruel, inhuman and degrading treatment or punishment, as well as the violation of their rights, and to provide smuggled migrants who have been victims of violent crimes with effective access to justice and legal assistance;

4. *Encourages* States parties, upon request, to continue providing technical assistance and support the efforts of international partners, including the United Nations Office on Drugs and Crime, that provide technical assistance aimed at strengthening the capacity of States parties to criminalize, investigate and prosecute

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<sup>17</sup> Ibid., vol. 2241, No. 39574.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid., vol. 2225, No. 39574.

the smuggling of migrants, for example, by assisting States parties in incorporating the provisions of the Smuggling of Migrants Protocol into their national legislation;

5. *Requests* the United Nations Office on Drugs and Crime to continue its technical assistance and capacity-building efforts, in coordination and cooperation with bilateral assistance providers and other relevant international organizations that assist States parties, upon request, in implementing the Smuggling of Migrants Protocol, and to assist States, upon request, in ratifying or acceding to the Smuggling of Migrants Protocol;

6. *Reminds* States parties that, although the smuggling of migrants and trafficking in persons may, in some cases, share some common features, States parties need to recognize, consistent with the Smuggling of Migrants Protocol and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>20</sup> that they are distinct crimes requiring separate legal, operational and policy responses;

7. *Welcomes* the report on the meeting of the Working Group on the Smuggling of Migrants held in Vienna from 30 May to 1 June 2012,<sup>21</sup> and encourages States parties to implement, where necessary, the recommendations contained therein;

8. *Urges* States parties to intensify, as appropriate, their efforts at the national and international levels with regard to cooperation in order to provide specialized training to law enforcement, prosecutorial and judicial officials, such as training for those responsible for gathering evidence from the point of interception of smuggled migrants;

9. *Also urges* States parties:

(a) To consider raising awareness of the penalties for the offence of the smuggling of migrants, especially offences committed under aggravating circumstances, so that those penalties may better serve as deterrents;

(b) To consider establishing aggravating circumstances to the relevant offences, in accordance with article 6, paragraph 1, of the Smuggling of Migrants Protocol, including those aggravating circumstances contained in article 6, paragraph 3, of the Smuggling of Migrants Protocol, specifically, circumstances that endanger or are likely to endanger the lives or safety of the migrants concerned or that entail inhuman or degrading treatment of such migrants;

(c) To ensure, where appropriate, that, in investigating and prosecuting the smuggling of migrants, the undertaking of concurrent financial investigations is considered with a view to tracing, freezing and confiscating proceeds acquired through such crime, and to consider the smuggling of migrants to be a predicate offence of money-laundering;

10. *Further urges* States parties to respect the fundamental human rights of smuggled migrants, irrespective of their migration status, nationality, gender,

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<sup>20</sup> Ibid., vol. 2237, No. 39574.

<sup>21</sup> CTOC/COP/WG.7/2012/6.

ethnicity, religion or age, taking into account the special needs of women and children;

11. *Invites* States parties to exchange their views and to share information and good practices regarding the measures taken to protect the human rights of smuggled migrants;

12. *Urges* States parties, as appropriate, to strengthen the security of their identity and travel documents and their capacity to detect fraudulent documents;

13. *Also urges* States parties to use, to the fullest extent possible, mutual legal assistance and other forms of cooperation and coordination to combat the smuggling of migrants at the national, regional and international levels, and encourages States parties to use the Organized Crime Convention as a legal basis for international cooperation, in particular in the form of mutual legal assistance and extradition to combat the smuggling of migrants;

14. *Further urges* States parties to consider the importance of bilateral and multilateral cooperation, including cooperation at the regional level and with neighbouring countries, in order to strengthen border control, conduct joint investigations, exchange operational information and intelligence and develop training programmes for relevant actors;

15. *Encourages* States parties to consider establishing, in countries of origin, transit and destination, programmes for returning smuggled migrants, including programmes for repatriation to the countries of origin, with the assistance of relevant international organizations and civil society, where appropriate, in line with the recommendations contained in paragraphs 52 and 53 of the report on the meeting of the Working Group on the Smuggling of Migrants;

16. *Also encourages* States parties to use existing operational databases, such as the databases of the International Criminal Police Organization (INTERPOL), to exchange information, including information on persons convicted of or suspected of committing any of the crimes set forth in article 6 of the Smuggling of Migrants Protocol and information on lost or stolen documents, in accordance with domestic law;

17. *Further encourages* States parties to reinforce multiagency cooperation and coordination, such as by considering the establishment of multiagency centres for the purpose of data collection, strategic and tactical analysis and information-sharing in order to detect, prevent and suppress the smuggling of migrants;

18. *Encourages* States parties to exchange information on best practices to promote cooperation to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea, in order to implement article 7 of the Smuggling of Migrants Protocol;

19. *Decides* that the Working Group on the Smuggling of Migrants should continue to perform the functions set forth in Conference resolution 5/3 of 22 October 2010;

20. *Also decides* that the Working Group should hold at least one intersessional meeting prior to the seventh session of the Conference, and notes in that regard the recommendation of the Working Group that the next meeting should

focus on good practices in special investigative techniques and the establishment of multiagency centres;

21. *Requests* the Secretariat to continue to assist the Working Group in the performance of its functions, and to submit a report to the Conference at its seventh session on the implementation of the present resolution;

22. *Invites* Member States and other donors to provide extrabudgetary resources for these purposes in accordance with the rules and procedures of the United Nations.

#### **Resolution 6/4**

### **Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime**

*The Conference of the Parties to the United Nations Convention against Transnational Organized Crime,*

*Noting* that technical assistance is a fundamental part of the work carried out by the United Nations Office on Drugs and Crime to assist Member States in the effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,<sup>22</sup>

*Welcoming* the work of the Working Group of Government Experts on Technical Assistance,

1. *Endorses* the recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held on 17 October 2012, during the sixth session of the Conference, which are annexed to the present resolution;

2. *Reaffirms* its decision 4/3 of 17 October 2008, in which it decided that the Working Group should be a constant element of the Conference.

#### **Annex**

### **Recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held on 17 October 2012**

The Working Group of Government Experts on Technical Assistance:

(a) Encourages States to develop “whole of government” strategies to combat transnational organized crime in order to:

(i) Promote intragovernmental coordination;

(ii) Respond to the constantly evolving nature of groups engaged in transnational organized crime;

<sup>22</sup> United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

- (iii) Raise public awareness about the negative consequences of the activities of organized criminal groups;
- (b) Requests the Secretariat, for the next meeting of the Working Group, to organize discussions, including panel discussions, on the following topics:
  - (i) Inter-agency task forces to combat organized crime;
  - (ii) Assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime;
  - (iii) Establishing capacity-building programmes for prosecutors and members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination;
  - (iv) Criminal threat assessment tools;
  - (v) Assistance in harmonizing domestic legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto;<sup>23</sup>
- (c) Invites States and other donors:
  - (i) To continue to provide resources for the assistance efforts of the United Nations Office on Drugs and Crime in order to further the implementation of the Convention and the Protocols thereto;
  - (ii) To continue to provide coordinated assistance through existing channels, including relevant international and regional organizations and bilateral assistance programmes;
- (d) Invites States and international organizations to evaluate, measure and assess technical assistance efforts and their results, with a view to maximizing the coordination and effectiveness of those efforts and the impact of those efforts on combating organized criminal groups and related criminal networks, and encourages States and international organizations to share good practices in that area.

## **B. Decisions**

2. At its sixth session, held in Vienna from 15 to 19 October 2012, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime adopted the following decisions:

### **Decision 6/1**

#### **Provisional agenda for the seventh session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime**

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime approved the provisional agenda for the seventh session of the Conference set out below.

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<sup>23</sup> Ibid.



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**Provisional agenda for the seventh session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime**

1. Organizational matters:
  - (a) Opening of the seventh session of the Conference;
  - (b) Election of officers;
  - (c) Adoption of the agenda and organization of work;
  - (d) Participation;
  - (e) Adoption of the report of the Bureau on credentials;
  - (f) General discussion.
2. Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto:
  - (a) United Nations Convention against Transnational Organized Crime;
  - (b) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
  - (c) Protocol against the Smuggling of Migrants by Land, Sea and Air;
  - (d) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.
3. Other serious crimes, as defined in the Convention, including new forms and dimensions of transnational organized crime.
4. International cooperation, with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities.
5. Technical assistance.
6. Financial and budgetary matters.
7. Provisional agenda for the eighth session of the Conference.
8. Other matters.
9. Adoption of the report of the Conference on its seventh session.

**Decision 6/2****Organization of the work of the seventh session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime**

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime, taking into account rule 3, paragraph 3, of the rules of procedure for the Conference:

- (a) Decided that the seventh session of the Conference should take place over five working days; that the number of meetings should remain the same as for

the previous sessions, that is, 20 meetings, with interpretation in the six official languages of the United Nations; and that a decision should be taken at the end of the seventh session on the duration of the eighth session;

(b) Requested that the resources allocated to the Conference should be maintained at the same level and be made available, *inter alia*, for any working group or committee of the whole established by the Conference.

### **Decision 6/3**

## **Organization of work for future sessions of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime**

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided that:

(a) For future sessions of the Conference, starting with the seventh session, the firm deadline for the submission of draft resolutions would be two weeks prior to the commencement of the session, and that the deadline for the submission of draft resolutions emanating from the working groups, which were held concurrently with the plenary session of the Conference, would be on Thursday at noon, provided that the duration of the Conference was five working days;

(b) For future sessions of the Conference, starting with the seventh session, the Conference would be preceded by informal pre-session consultations, without interpretation, to be held on the working day preceding the first day of the Conference, which would provide an opportunity for States to engage in informal consultations on draft resolutions and, *inter alia*, the provisional agenda for the subsequent session of the Conference.

## **II. Organization of the session**

### **A. Opening of the session**

3. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime held its sixth session in Vienna from 15 to 19 October 2012. During the session, a total of 10 meetings were held, including three meetings of the Committee of the Whole. The Working Group on International Cooperation held three meetings, on 15 and 16 October 2012. The Working Group of Governmental Experts on Technical Assistance held two meetings on 17 October 2012. The two working groups also held two joint meetings on 18 October 2012.

4. At the first meeting of the session, on 15 October 2012, opening statements were made by the Executive Director of the United Nations Office on Drugs and Crime (UNODC), the President of Slovenia and the representatives of Chile (on behalf of the States Members of the United Nations that are members of the Group of 77 and China), Nigeria (on behalf of the States Members of the United Nations that are members of the Group of African States), the Philippines (on behalf of the States Members of the United Nations that are members of the Group of

Asia-Pacific States) and El Salvador (on behalf of the States Members of the United Nations that are members of the Group of Latin American and Caribbean States). A statement was also made by the representative of the European Union (on behalf of the States Members of the United Nations that are members of the European Union; Albania, Armenia, Bosnia and Herzegovina, Croatia, Iceland, Liechtenstein, the Republic of Moldova, Montenegro, San Marino, Serbia, the former Yugoslav Republic of Macedonia and Ukraine associated themselves with that statement). Statements were also made by the Minister of Justice of the Plurinational State of Bolivia, the Minister of Justice of Nigeria, the Director General of the Federal Ministry of Justice of Austria and the Minister of the Interior of Mexico.

## **B. Election of officers**

5. At its first session, the Conference had decided that the offices of President and Rapporteur should rotate among the regional groups and that such rotation should take place in alphabetical order. Accordingly, at the sixth session, the President of the Conference was nominated by the Asia-Pacific States, and the African States were asked to nominate one Vice-President and the Rapporteur.

6. At its first meeting, on 15 October 2012, the Conference elected the following officers by acclamation:

<i>President:</i>	Rachmat Budiman (Indonesia)
<i>Vice-Presidents:</i>	Simona Marin (Romania) Eugenio María Curia (Argentina) Carmen Buján Freire (Spain) Khaled Abdelrahman Shamaa (Egypt) Lourdes Yparraguirre (Philippines) Blanka Jamnišek (Slovenia) Alejandro Poiré Romero (Mexico) John Brandolino (United States of America)
<i>Rapporteur:</i>	Consolata Kiragu (Kenya)

## **C. Adoption of the agenda and organization of work**

7. At its first meeting, on 15 October 2012, the Conference adopted the provisional agenda contained in document CTOC/COP/2012/1.

## **D. Participation of observers**

8. The sixth session of the Conference was attended by representatives of 108 States parties to the Convention and a regional economic integration organization party to the Convention. Observers for seven States signatories to the Convention also attended the Conference. Secretariat units, a United Nations fund and a United Nations specialized agency, an institute of the United Nations crime prevention and criminal justice programme network, an entity maintaining a permanent observer mission to the United Nations, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and

Social Council were represented by observers. Relevant non-governmental organizations not having consultative status with the Economic and Social Council that had applied for observer status with the Conference were also represented.

9. The list of participants is contained in CTOC/COP/2012/INF/2/Rev.2.
10. Rules 14-17 of the rules of procedure of the Conference, concerning the participation of observers, were brought to the attention of participants in the session.
11. At its fifth session, the Conference had decided that the intergovernmental organizations listed in CTOC/COP/2010/CRP.7, as orally amended, would receive invitations to attend future sessions of the Conference. The extended Bureau of the Conference had considered the matter at its meeting on 7 May 2012, and all intergovernmental organizations listed in CTOC/COP/2010/CRP.7 had received invitations to the sixth session of the Conference.
12. In accordance with rule 17 of the rules of procedure, the Secretariat circulated to the Bureau in due time a list of non-governmental organizations in consultative status with the Economic and Social Council and other relevant organizations not having consultative status with the Economic and Social Council but which had applied to the Bureau for observer status. The participation of non-governmental organizations in the sixth session of the Conference was considered and agreed by the extended Bureau at its meetings held on 7 May, 4 July, 6 September and 9 October 2012.

#### **E. Adoption of the report of the Bureau on credentials**

13. By its decision 4/7, the Conference amended rule 18, on submission of credentials, of its rules of procedure, modifying paragraph 3 and adding a new paragraph to read as follows:

“3. The credentials shall be issued by the Head of State or Government, by the Minister for Foreign Affairs or by the Permanent Representative to the United Nations of the State party in accordance with its domestic law or, in the case of a regional economic integration organization, by the competent authority of that organization.

“4. When the Conference is to consider proposals for amendments to the Convention in accordance with article 39 of the Convention and rule 62 of the rules of procedure for the Conference, the credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs of the State party or, in the case of a regional economic integration organization, by the competent authority of that organization.”

14. According to rules 18 and 19 of the rules of procedure, the Bureau shall examine the credentials of representatives of each State party and the names of the persons constituting the delegation of that State party and submit its report to the Conference.

15. The Conference considered the issue of credentials at its 1st, 7th and 10th meetings. At the 10th meeting, the Rapporteur informed the Conference that the Bureau had considered the issue of credentials at its 1st, 2nd and 4th meetings.

At its 4th meeting, the Bureau also heard the report on credentials of Khaled Abdelrahman Shamaa (Egypt), Vice-President of the Bureau, who had examined the credentials on its behalf. The Bureau emphasized that it was the obligation of each State party to submit the credentials of representatives in accordance with rule 18 of the rules of procedure. The Bureau recommended that the Conference adopt the oral report of the Bureau indicating that all States parties represented at the sixth session had complied with the credentials requirements, with the understanding that those States parties which had not yet done so would be given until 29 October 2012 to submit their original credentials to the Secretariat

16. At its 10th meeting, on 19 October 2012, the Conference adopted the report of the Bureau on credentials.

17. Of the 108 States parties present at the sixth session, 13 had not complied with the credentials requirements.

## **F. Documentation**

18. At its sixth session, the Conference had before it, in addition to the documents prepared by the Secretariat, a list of documents containing proposals submitted by the Secretariat and a proposal submitted by a Government (CTOC/COP/2012/CRP.7).

## **III. General discussion**

19. At its 1st, 2nd, 3rd and 4th meetings, on 15 and 16 October 2012, the Conference considered agenda item 1 (f), entitled "Organizational matters: general discussion".

20. The sub-item had been included in the agenda to allow time for statements to be made on matters of a general nature related to the implementation of the Convention and the Protocols thereto that might be of interest to the Conference. Furthermore, the organization of a general discussion offered participants an opportunity to express their views in general terms in the plenary, while also allowing more focused and interactive dialogue to take place under the substantive items of the agenda.

21. The Conference heard statements by the representatives of the Russian Federation, Namibia, the United States, Spain, Australia, China, France, the Philippines, Finland, Qatar, Turkey, Egypt, Colombia, Belarus, El Salvador, Belgium, Morocco, Viet Nam, Cuba, Canada, Algeria, Norway, Costa Rica, Kazakhstan, Indonesia, Saudi Arabia, Venezuela (Bolivarian Republic of), Ecuador, South Africa, the Holy See and Benin.

22. The Conference also heard statements by the observers for the following signatory States: Thailand, Iran (Islamic Republic of), Japan and Republic of Korea.

23. The observer for the Parliamentary Assembly of the Mediterranean made a statement.

24. Statements were also made by the observers for the following non-governmental organizations: Forum for Women and Development, Coalition

against Trafficking in Women, Mediterranean Network against Trafficking in Women, Global Alliance against Traffic in Women and Transparency International.

### **Deliberations**

25. Several speakers acknowledged the increasing sophistication of transnational organized crime and its negative impact on the rule of law, peace, security and development. Many speakers emphasized the impact of organized crime on individuals, their families and communities and noted that the profits generated by criminal organizations were comparable to the budgets of some States. Some speakers referred to the collusion between those involved in organized crime and those involved in terrorism, mentioning the situation in the Sahel region.

26. Speakers stressed that no safe haven should be afforded to criminals and that the Convention served as the main legal instrument in the fight against transnational organized crime by providing a flexible framework for international and regional cooperation. Many speakers underlined their readiness to use the Convention as a legal basis for extradition and mutual legal assistance. Several speakers indicated that the Convention was a sound basis for countering different types of organized crime, including its new forms and dimensions, such as cybercrime and trafficking in cultural property. The coordinated involvement of relevant practitioners and the use of innovative technological tools in the fight against transnational organized crime were also noted.

27. It was emphasized that the Conference was the main forum for assessing progress and discussing strategy and direction. The Conference also provided States with the opportunity to benefit from a wide range of best practices and to adapt their national policies and strategies accordingly. Most speakers outlined their national legislative and institutional frameworks and called for regular reviews and updates of domestic legislation in order to adapt to the ever-changing forms and dimensions of organized crime. In addition, several speakers emphasized the need for evidence-based policy formulation and awareness-raising with respect to various forms and dimensions of organized crime.

28. Most speakers highlighted the importance of adopting a mechanism to review implementation of the Convention and the Protocols thereto. Such a mechanism would be instrumental in advancing implementation and promoting regional and international cooperation, as well as identifying needs and providing technical assistance, upon request from States. Several speakers referred to the important role that observers, in particular non-governmental organizations, should have in the review mechanism.

## **IV. Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

### **A. United Nations Convention against Transnational Organized Crime**

29. At its 4th meeting, on 16 October 2012, the Conference considered agenda item 2 (a), entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: United Nations Convention against Transnational Organized Crime”. For its consideration of the item, the Conference had before it the following:

(a) Report of the Secretariat on the development of a digest of organized crime cases (CTOC/COP/2012/11);

(b) Note by the Secretariat on the estimated financial requirements for a mechanism to review the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOP/COP/2012/14);

(c) Conference room paper on the status of ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto as at 1 October 2012 (CTOC/COP/2012/CRP.1);

(d) Conference room paper providing an update on the development of the omnibus survey software to collect information on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/2012/CRP.2);

(e) Conference room paper providing an evaluation of the pilot programme to review implementation of the United Nations Convention against Transnational Organized Crime (CTOC/COP/2012/CRP.3);

(f) Non-paper by Mexico entitled “Chapultepec Consensus: establishment of the hemispheric approach for cooperation against transnational organized crime” (CTOC/COP/2012/CRP.5).

30. The Director of the Division for Treaty Affairs of UNODC made an introductory statement. A representative of the Secretariat made an audiovisual presentation.

31. Statements were made by the representatives of Norway, Romania, the United States and Lebanon.

32. The observer for the signatory State Japan also made a statement.

#### **1. Deliberations**

33. Speakers called on States to ratify and implement the provisions of the Organized Crime Convention and the Protocols thereto. The importance of using the Convention as a basis for international judicial cooperation was stressed.

34. Speakers noted with appreciation the role of UNODC in providing technical assistance to States. They indicated that the effective implementation of the

Convention required the adoption of a mechanism to review implementation of the Organized Crime Convention and the Protocols thereto.

35. Speakers welcomed the progress made since the previous session of the Conference within the framework of the open-ended intergovernmental working group on the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, as well as the informal consultations, which had been positively facilitated by Mexico. The efforts of UNODC to provide relevant information, particularly related to cost-saving measures, as well as the improvements made to the comprehensive self-assessment software (“omnibus survey software”), were further noted. In addition, speakers stated that most chapters of the terms of reference for the review mechanism had been agreed and that efforts had been made to incorporate lessons learned and to ensure cost-effectiveness.

36. States expressed their willingness to consider other opinions and to contribute constructively to resolve the two outstanding issues, namely, funding of the mechanism and the participation of observers.

37. Some States diverged in their views on whether the mechanism should be funded exclusively through extrabudgetary contributions or through a combination of regular budget and extrabudgetary funds, as well as on the form of participation of observers in the mechanism.

38. States also referred to the draft provisions in the terms of reference of the mechanism regarding the participation of observers in the sessions of the Palermo Implementation Review Group.

39. The Conference was unable to establish a mechanism for the review of implementation of the Organized Crime Convention and the Protocols thereto.

## **2. Action taken by the Conference**

40. At its 10th meeting, on 19 October 2012, the Conference adopted a revised draft resolution (CTOC/COP/2012/L.4/Rev.2) sponsored by Costa Rica, Croatia, Ecuador, Egypt, El Salvador, the European Union, Guatemala, Mexico, Peru and the United States. (For the text, see chapter I, section A, resolution 6/1.) Prior to the adoption of the revised draft resolution, a representative of the Secretariat read out a statement on the financial implications of such adoption.<sup>24</sup>

## **B. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**

41. At its 4th and 5th meetings, on 16 and 17 October 2012, the Conference considered agenda item 2 (b), entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”. For its consideration of the item, the Conference had before it the following:

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<sup>24</sup> CTOC/COP/2012/CRP.6, annex I.



(a) Report of the Secretariat on the activities of the United Nations Office on Drugs and Crime to promote and support the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (CTOC/COP/2012/2);

(b) Note by the Secretariat transmitting the recommendations adopted by the Working Group on Trafficking in Persons at its meeting held in Vienna from 10 to 12 October 2011 (CTOC/COP/2012/3);

(c) Report of the Secretariat on best practices for addressing the demand for labour, services or goods that foster the exploitation of others (CTOC/COP/2012/4).

42. An introductory statement was made by a representative of the Secretariat. A statement was also made by the Special Rapporteur on trafficking in persons, especially women and children.

43. Statements were made by the representatives of Norway, Argentina, Ecuador, Algeria, the United Arab Emirates, Sweden, Burkina Faso, Kazakhstan, South Africa, Venezuela (Bolivarian Republic of), Switzerland, Lebanon, France, the Russian Federation, Romania, Indonesia, Italy, China, the United States, Egypt, Belarus and Mexico.

44. The observers for signatory States Thailand and Japan also made statements.

45. The observers for the International Organization for Migration and the Global Alliance against Traffic in Women made statements as well.

#### **Deliberations**

46. Several speakers reported on measures taken at the national level to combat trafficking in persons, including ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>25</sup> and the adoption or amendment of national legislation. Other actions taken included the adoption of national action plans, the establishment of national coordination and information collection mechanisms, the adoption of measures for the non-criminalization and enhanced protection of and assistance for victims of trafficking, the taking of measures for seizing and recovering assets, the development of awareness-raising activities and the elaboration of bilateral and regional agreements. Some speakers announced the adoption by their countries of the Blue Heart campaign and expressed their support for the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children.

47. A number of speakers noted that trafficking in persons was a serious form of organized crime, affecting equally countries of origin, transit and destination, thus requiring a holistic, multidimensional approach that balanced criminal justice aspects with human rights. Speakers highlighted the need for a victim-centred approach to fighting trafficking in persons, the importance of identifying victims of trafficking in persons and the establishment of comprehensive protection and assistance mechanisms for victims and witnesses of trafficking in persons.

<sup>25</sup> United Nations, *Treaty Series*, vol. 2237, No. 39574.

48. Several speakers emphasized the importance of the comprehensive approach of the United Nations Global Plan of Action to Combat Trafficking in Persons, adopted by the General Assembly in its resolution 64/293. Speakers welcomed the forthcoming publication by UNODC of the 2012 *Global Report on Trafficking in Persons*.

49. Some speakers emphasized the important role of civil society organizations in implementing measures to counter trafficking in persons, especially in the area of prevention, protection and reintegration of victims.

50. Speakers noted that a comprehensive approach should address the root causes and the demand side of trafficking in persons in all its forms. In that regard, the report of the Secretariat on best practices for addressing the demand for labour, services or goods that foster the exploitation of others could serve as a baseline for information on current global efforts.

51. Several speakers emphasized the need to continue the analysis of key concepts of the Trafficking in Persons Protocol and welcomed the UNODC issue paper on abuse of a position of vulnerability and other means within the definition of trafficking in persons.

52. The outcome and recommendations issuing from the meeting of the Working Group on Trafficking in Persons held from 10 to 12 October 2011, including the recommendations of the Working Group on future areas of work and support for the extension of its mandate, were noted.

53. Several speakers acknowledged the progress achieved to date by the Inter-Agency Coordination Group against Trafficking in Persons in improving coordination and cooperation among relevant United Nations entities and international organizations in the fight against trafficking in persons and encouraged the Inter-Agency Coordination Group to continue its work.

54. Speakers highlighted the role of UNODC and other international organizations in providing technical assistance to combat trafficking in persons. Speakers expressed appreciation for the cooperation extended by UNODC to their Governments.

### **C. Protocol against the Smuggling of Migrants by Land, Sea and Air**

55. At its 5th and 6th meetings, on 17 October 2012, the Conference considered agenda item 2 (c), entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: Protocol against the Smuggling of Migrants by Land, Sea and Air”. For its consideration of the item, the Conference had before it the following:

(a) Report of the Secretariat on activities of the United Nations Office on Drugs and Crime to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (CTOC/COP/2012/5);

(b) Note by the Secretariat transmitting the report on the meeting of the Working Group on the Smuggling of Migrants held in Vienna from 30 May to 1 June 2012 (CTOC/COP/2012/8).

56. A representative of the Secretariat made an introductory statement.
57. Statements were made by the representatives of the Russian Federation, Indonesia, South Africa, Mexico, Turkey, Romania, Argentina and the United States.
58. The observer for the signatory State Thailand also made a statement.
59. The observer for the Sovereign Military Order of Malta also made a statement.
60. The observer for the International Organization for Migration made a statement.
61. The observer for the Tronie Foundation also made a statement.

## **1. Deliberations**

62. Several speakers stressed that, in order to effectively implement the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, it was necessary to criminalize the smuggling of migrants and related conduct, including document fraud, especially when committed by organized criminal groups, and to effectively enforce such laws.
63. Some speakers noted that the smuggling of migrants was a very profitable crime that attracted organized criminal groups involved in other crimes such as drug trafficking and terrorism and that organized criminal groups could corrupt State officials in order to facilitate their illicit activities.
64. Speakers welcomed the outcome of the meeting of the Working Group on the Smuggling of Migrants held in Vienna from 30 May to 1 June 2012, and called for the continuation of the Working Group and for the full implementation of its recommendations.
65. Several speakers expressed their appreciation for technical assistance provided by UNODC to States in the area of countering smuggling of migrants, including with regard to awareness-raising, border control, capacity-building and the development of national strategies and coordination mechanisms.
66. Some speakers mentioned that their national strategic approach to preventing and combating the smuggling of migrants was incorporated into national or regional policies and plans of action relating to migration. Some speakers stressed the need for those policies to be realistic and human-rights-based. Such policies should include the development of legal migration channels in order to reduce the vulnerability of migrants to organized criminal groups and should be envisaged in the broader context of migration and development.
67. Some speakers highlighted the importance of measures to prevent the smuggling of migrants, for example with regard to border management policies, the strengthening of the security of identity and travel documents, capacity-building for criminal justice practitioners and specialized equipment. Measures taken should be comprehensive, address the root causes of migration and raise public awareness of the nature of the crime.
68. It was noted that processes to identify smuggled migrants, trafficking victims, asylum-seekers and other migrants were a core policy challenge. It was also noted

that new technologies used to detect smuggling of migrants could be exploited by criminals and therefore needed to be handled responsibly.

69. Several speakers noted the vulnerability of smuggled migrants to other crimes such as kidnapping, extortion, trafficking in persons, rape, physical assault and murder. They stressed the importance of criminal legislation taking into account aggravating circumstances, giving victims of crime and violence effective access to justice regardless of their migratory status and involving international organizations and civil society in efforts to reduce the vulnerability of smuggled migrants. It was suggested that the next meeting of the Working Group on the Smuggling of Migrants could serve as a forum for sharing best practices in international cooperation to protect the rights of smuggled migrants.

70. Several speakers stressed that coordination among stakeholders at the national level was essential. They provided practical examples of coordination undertaken by their Governments to detect and investigate the smuggling of migrants and document fraud; to collect, analyse and share data; and to determine policies and measures, including on border management.

71. A number of speakers stressed the crucial role of international and regional cooperation and the shared responsibility of countries of origin, transit and destination in addressing the smuggling of migrants. They considered multilateral and bilateral cooperation, both informal and formal, to be key for building trust, sharing information, conducting joint operations, enhancing the capacity of criminal justice practitioners, extraditing criminals, providing mutual legal assistance, effectively preventing the smuggling of migrants and successfully investigating, prosecuting and adjudicating cases of smuggling of migrants.

## **2. Action taken by the Conference**

72. At its 10th meeting, on 19 October 2012, the Conference adopted a revised draft resolution (CTOC/COP/2012/L.6/Rev.2) sponsored by Australia, Canada, Ecuador, El Salvador, the European Union, Guatemala, Indonesia, Japan, Mexico, Norway and the United States. (For the text, see chapter I, section A, resolution 6/3.) Prior to the adoption of the revised draft resolution, a representative of the Secretariat read out a statement on the financial implications of such adoption.<sup>26</sup>

## **D. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition**

73. At its 6th meeting, on 17 October 2012, the Conference considered agenda item 2 (d), entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition”. For its consideration of the item, the Conference had before it the following:

(a) Report submitted by the Chair of the Working Group on Firearms on the activities of the Working Group (CTOC/COP/2012/6);

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<sup>26</sup> CTOC/COP/2012/CRP.6, annex III.

(b) Note by the Secretariat on the work of the United Nations Office on Drugs and Crime on conducting a study of the transnational nature of and routes used in trafficking in firearms (CTOC/COP/2012/12).

74. A representative of the Secretariat made an introductory statement.

75. Statements were made by the representatives of Algeria, Lebanon, Romania, Mexico, the United States and Argentina.

76. A statement was also made by the observer for the International Criminal Police Organization (INTERPOL).

## 1. Deliberations

77. Several speakers expressed concern regarding the rising level of trafficking in firearms and its links to transnational organized crime. A number of speakers underlined the need to intensify efforts and develop collective and effective responses at the global, regional, subregional and national levels in order to prevent and combat that serious form of crime. Several speakers called on States to adhere to and ensure full implementation of the provisions of the Firearms Protocol.

78. A number of speakers expressed support for the work done by UNODC to promote and support the ratification and implementation of the Firearms Protocol. They welcomed, in particular, the development of the *Model Law against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition*,<sup>27</sup> which they considered to be a valuable tool in assisting States in strengthening their legislation in order to effectively implement the Protocol. Speakers outlined the progress achieved by their countries in the adoption of comprehensive institutional and normative frameworks and measures to comply with the provisions of the Organized Crime Convention and the Firearms Protocol.

79. Some speakers provided information regarding their national firearms control regimes and the establishment of specialized prosecutorial units for the investigation of trafficking in firearms. Several speakers highlighted the need for the establishment of robust record-keeping systems based on the development of comprehensive databases to ensure better traceability of firearms and, where possible, their parts and components and ammunition. The need to maintain proper records on international transfers was also noted.

80. Concern was expressed regarding the long lifespan of firearms used in illicit activities, which exceeded the 10-year recording period envisaged by the Firearms Protocol. Speakers also noted new and emerging modi operandi of criminals, including the use of the Internet for the purpose of the illicit manufacturing and repair of firearms and their parts and components, as well as the dissemination of specialized expertise on the illicit manufacturing of firearms, and the need to criminalize those forms of crime.

## 2. Action taken by the Conference

81. At its 10th meeting, on 19 October 2012, the Conference adopted a revised draft resolution (CTOC/COP/2012/L.5/Rev.2) sponsored by El Salvador (on behalf of the Group of Latin American and Caribbean States) and the United States. (For

<sup>27</sup> United Nations publication, Sales No. E.11.V.9.

the text, see chapter I, section A, resolution 6/2.) Prior to the adoption of the revised draft resolution, a representative of the Secretariat read out a statement on the financial implications of such adoption.<sup>28</sup>

82. Following the adoption of the resolution, the representative of Canada made a statement, noting that Canada had been and would remain a firm supporter of international efforts against transnational organized crime, UNODC and the Convention against Transnational Organized Crime. The Government of Canada was committed to keeping its streets and communities safe. It had also taken steps to lessen the burden on law-abiding gun owners and eliminated a wasteful and ineffective long-gun registry. The speaker also noted the concern of Canada that, in an effort to keep firearms out of the wrong hands, unnecessary and counterproductive controls would be advocated that served only to penalize legitimate firearms users. He further noted that, since there were legitimate uses, there was also legitimate trade, and that this was an acknowledged fact and not a narrowly held opinion. He stated that the rights of legitimate firearms owners should be acknowledged and respected and that their lawful activities, including sport shooting and hunting, should not be forgotten. He thanked the Conference for including in the resolution a reference in defence of legitimate users and uses and noted that Canada had hoped for a stronger statement. He added that acknowledging and respecting the rights and freedoms of legitimate users would indeed serve to bring the international community closer together in dealing with the very real threat of transnational organized crime and that Canada would continue to make that a priority.

## **V. Other serious crimes, as defined in the Convention, including new forms and dimensions of transnational organized crime**

83. At its 4th and 5th meetings, on 16 and 17 October 2012, the Conference considered agenda item 3, entitled “Other serious crimes, as defined in the Convention, including new forms and dimensions of transnational organized crime”. For its consideration of the item, the Conference had before it the following:

(a) Report of the Secretariat on technical assistance provided to States in the application of the United Nations Convention against Transnational Organized Crime to new forms and dimensions of transnational organized crime (CTOC/COP/2012/7);

(b) Conference paper on the notion of serious crime in the United Nations Convention against Transnational Organized Crime (CTOC/COP/2012/CRP.4).

84. A representative of the Secretariat made an introductory statement.

85. Statements were made by the representatives of Lebanon, Norway, Algeria, Austria, China, Italy, the Russian Federation, the United States, Nigeria, South Africa, Turkey and Kazakhstan.

86. The observer for the signatory State Thailand also made a statement.

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<sup>28</sup> CTOC/COP/2012/CRP.6, annex II.

87. The observer for the World Wide Fund for Nature International also made a statement.

### **Deliberations**

88. Several speakers highlighted the challenge presented by new forms and dimensions of transnational organized crime and noted that the Organized Crime Convention represented an appropriate framework for addressing such crime, in particular through the notion of “serious crime”. That standard enabled the Convention to cover not only currently emerging forms of crime, but also serious crime that might emerge in the future. Speakers noted that it was important to strengthen efforts to prevent and combat new forms and dimensions of organized crime, including cybercrime, environmental crime, maritime piracy and trafficking in fauna and flora, fraudulent medicines and cultural property. Many forms of organized crime, including cigarette smuggling, had been recognized for a number of years. Despite the information available, progress in combating some of those forms of crime had been relatively limited.

89. Many speakers referred to cybercrime as a significant concern because of recent advances in global Internet connectivity and the fact that groups engaged in transnational organized crime were making use of progressively more sophisticated technology. Combating cybercrime required not only specific criminal laws, but also capacity-building, intersectoral coordination, effective international cooperation, knowledge-building and education. Strategies should be closely coordinated with approaches to enhancing cybersecurity. Speakers highlighted national initiatives, including the establishment of competence centres and intragovernmental working groups. Several speakers welcomed the work of the Expert Group to Conduct a Comprehensive Study on Cybercrime and said they looked forward to the results of its comprehensive study. Some speakers emphasized the need for the outcome of the work of the Expert Group to be presented to the Commission on Crime Prevention and Criminal Justice at its twenty-second session.

90. In the area of cooperation against cybercrime, speakers referred to multilateral and bilateral mechanisms, as well as cooperation through INTERPOL and regional coordination groups. Some speakers referred to existing legal instruments, such as the Council of Europe Convention on Cybercrime. Some speakers noted that there was a need for an international legal instrument on cybercrime to be negotiated within the framework of the United Nations.

91. Several speakers emphasized the need for concerted international action to prevent and combat trafficking in cultural property and the continued need to protect cultural heritage. Speakers welcomed the efforts in that area of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation, as well as the work of the expert group on protection against trafficking in cultural property, established by the Commission on Crime Prevention and Criminal Justice. Speakers encouraged Member States and UNODC to continue to work on the development of specific guidelines on crime prevention and criminal justice responses to trafficking in cultural property.

92. Many speakers referred to the link between environmental crime and transnational organized crime and noted that trafficking in wild fauna and flora, illegal fishing and the dumping of hazardous and electronic waste were highly

detrimental to ecosystems and endangered species. Speakers welcomed the study published in 2011 by UNODC on transnational organized crime in the fishing industry and said they looked forward to the expert group meeting to be held in November 2012. Some speakers recommended that States parties to the Organized Crime Convention should urgently examine means of collectively addressing the problem of trafficking in hazardous waste.

93. Some speakers drew attention to specific forms of environmental crime, including rhinoceros poaching and illegal mining, noting that such forms of crime were linked to corruption and inequalities with regard to development. Speakers reported that the laundering of proceeds derived from such crime often involved the use of informal banking systems. A core strategy for addressing the problem involved legislative review, monitoring of the compliance of industry and international cooperation, including mechanisms for the recovery of assets.

94. On maritime piracy, speakers drew attention to the importance of building sustainable criminal justice capacity and prison infrastructure, as well as the need for international cooperation, including through the Contact Group on Piracy off the Coast of Somalia. It was noted that the modalities of maritime piracy were becoming progressively more sophisticated and that piracy was increasing in areas such as the Gulf of Guinea. The response should be a collective effort of the international community to address the root causes and to dismantle the criminal networks involved, as well as the sources of financing and proceeds.

95. Speakers noted that crime involving fraudulent medicines or trafficking in human organs was increasing because of limited national capacities to control such crime and the huge profits to be gained by such illegal activity. Noting the particular vulnerability of persons in developing countries to illegal organ removal, speakers stated that there was an urgent need to strengthen the international response, including through the development of appropriate standards and norms. Some speakers referred to fraudulent medicines as a problem that posed a global threat to the credibility and effectiveness of health-care systems. Speakers highlighted the role of regional cooperation, including the Economic Community of West African States committee against counterfeit medicines, as well as the use of new technologies, including handheld scanners for the identification of counterfeit medicines.

## **VI. International cooperation, with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities**

96. At its 7th meeting, on 18 October 2012, the Conference considered agenda item 4, entitled “International cooperation, with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities”. For its consideration of the item, the Conference had before it the report of the Secretariat on the activities of the United Nations Office on Drugs and Crime to promote the implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime (CTOC/COP/2012/9).



97. A representative of the Secretariat made an introductory statement.
98. The Chair of the Working Group on International Cooperation briefed the Conference on the deliberations of the Working Group and presented its recommendations. He also informed the Conference that there had been a panel with presentations on the disposal, sharing and use of confiscated proceeds of crime.
99. Statements were made by the representatives of Andorra, Sri Lanka, Kazakhstan, Indonesia, China, the Russian Federation, the United States and Egypt.
100. A statement was made by the observer for the United Nations Educational, Scientific and Cultural Organization.
101. A statement was also made by the Conference of Ministers of Justice of Ibero-American Countries.

### **Deliberations**

102. Several speakers highlighted the importance of using the Convention either as the sole legal basis or in conjunction with other international cooperation treaties for the purposes of extradition, mutual legal assistance and international cooperation for the purposes of confiscation. The necessity of fully implementing the provisions on international cooperation of the Convention in order to combat transnational organized crime was stressed. Speakers highlighted the usefulness of those provisions in combating a large number of offences, such as cybercrime and money-laundering. Such provisions also allowed for the confiscation of illicit assets and asset recovery.
103. Several speakers expressed appreciation for the work done by UNODC in developing the digest of organized crime cases, the Mutual Legal Assistance Request Writer Tool, the manual on mutual legal assistance and extradition, the manual on international cooperation for the purposes of confiscation of proceeds of crime and the directory of competent national authorities, as well as facilitating the development of regional networks active in the field of cooperation in the fight against transnational organized crime. Some speakers underscored the usefulness of capacity-building workshops for practitioners on drafting mutual legal assistance requests and noted the need to increase awareness among such practitioners of the Convention.
104. Speakers underlined the need for training and technical assistance in order to improve the capacities of national authorities in using the Convention to deal with extradition, mutual legal assistance and confiscation requests. Some speakers emphasized the usefulness of online networking and videoconferencing, especially when used to obtain oral testimony of witnesses, in facilitating international cooperation.
105. Several speakers underlined that subregional, regional and international cooperation were essential in combating transnational organized crime. Practitioners were encouraged to share good practices in order to combat transnational organized crime more effectively.
106. Some speakers noted the many types of crime for which they had been able to use the provisions on international cooperation of the Convention in order to both request and respond to requests for mutual legal assistance.

107. Some speakers suggested that the conclusion of bilateral treaties was necessary by those countries which made cooperation conditional on the existence of a treaty and which did not take the Convention as the legal basis for cooperation on extradition or mutual legal assistance.

108. Some speakers noted that requests for extradition were often denied without an explanation from the requested State, although article 16, paragraph 16, of the Convention indicated that, before refusing extradition, the requested State party should, where appropriate, consult with the requesting State party, so as to allow it to provide relevant information.

## **VII. Technical assistance**

109. At its 7th and 8th meetings, on 18 October 2012, the Conference considered agenda item 5, entitled “Technical assistance”. For its consideration of the item, the Conference had before it the following documents:

(a) Report of the Secretariat on technical assistance provided to States in the application of the United Nations Convention against Transnational Organized Crime to new forms and dimensions of transnational organized crime (CTOC/COP/2012/7);

(b) Report of the Secretariat on the provision of technical assistance to States in the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/2012/10);

(c) Note by the Secretariat on financial and budgetary matters (CTOC/COP/2012/13).

110. The Chair of the Working Group of Government Experts on Technical Assistance briefed the Conference on the deliberations of the Working Group and presented its recommendations for consideration by the Conference.

111. One of the co-chairs of the joint discussion on cultural property of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation briefed the Conference on the discussion and presented recommendations for consideration by the Conference.

112. Statements were made by the representatives of the United States and China.

113. The Conference also heard statements by the observers for signatory States Japan and Iran (Islamic Republic of).

### **A. Deliberations**

114. A number of speakers expressed appreciation for the continued delivery of technical assistance by UNODC to States in the implementation of the Organized Crime Convention and the Protocols thereto. The progress made by UNODC through the adoption of a thematic and regional programme approach to guide its delivery of technical assistance was also noted.

115. Speakers emphasized the need to ensure that national priorities and requirements for technical assistance were taken into account. The Conference was

urged to make the best use of the information on technical assistance needs that had been identified, including through the use of the omnibus survey software, as well as the previously issued self-assessment checklist and questionnaires, which would lead to better targeted technical assistance programmes. UNODC was urged to disseminate the information on identified technical assistance needs, including through its field offices, to potential technical assistance providers.

116. With regard to national strategies against transnational organized crime, it was stated that assistance in capacity-building should be given to developing countries and that a dialogue should take place between providers and recipients of technical assistance, based on the needs and priorities of individual States.

117. The usefulness of technical assistance tools, including those developed by UNODC, for practitioners dealing with mutual legal assistance and extradition was noted.

118. The effectiveness of utilizing the institutes of the United Nations crime prevention and criminal justice programme network for the delivery of technical assistance was noted. Efforts to provide technical assistance in each region should be promoted and strengthened, with a view to supporting and enhancing global efforts to counter transnational organized crime.

## **B. Action taken by the Conference**

119. At its 10th meeting, on 19 October 2012, the Conference adopted a draft resolution (CTOC/COP/2012/L.9) submitted by the Chair of the Working Group of Government Experts on Technical Assistance. (For the text, see chapter I, section A, resolution 6/4.) Prior to the adoption of the draft resolution, a representative of the Secretariat read out a statement on the financial implications of such adoption.<sup>29</sup>

## **VIII. Financial and budgetary matters**

120. At its 9th meeting, on 19 October 2012, the Conference considered agenda item 7, entitled “Financial and budgetary matters”. For its consideration of the item, the Conference had before it a note by the Secretariat on financial and budgetary matters (CTOC/COP/2012/13).

121. A representative of the Secretariat made an introductory statement.

## **IX. Provisional agenda for the seventh session of the Conference**

122. At its 10th meeting, on 19 October 2012, the Conference considered agenda item 7, entitled “Provisional agenda for the seventh session of the Conference”. The draft provisional agenda for the seventh session of the Conference had been drawn up by the Secretariat in consultation with the Bureau, pursuant to rule 8 of the rules of procedure.

<sup>29</sup> Ibid., annex IV.

**Action taken by the Conference**

123. At its 10th meeting, on 19 October 2012, the Conference adopted the provisional agenda for the seventh session of the Conference. (For the text, see chapter I, section B, decision 6/1.) The Conference decided that its seventh session would take place from 6 to 10 October 2014.

**X. Other matters**

124. No other matters were brought to the attention of the Conference.

**Action taken by the Conference**

125. At its 10th meeting, on 19 October 2012, the Conference adopted a draft decision (CTOC/COP/2012/L.11) submitted by the extended Bureau. (For the text, see chapter I, section B, decision 6/2.) Prior to the adoption of the decision, a representative of the Secretariat read out a statement on its financial implications.<sup>30</sup>

126. Also at its 10th meeting, the Conference adopted a draft decision (CTOC/COP/2012/L.12) submitted by the extended Bureau. (For the text, see chapter I, section B, decision 6/3.)

**XI. Adoption of the report of the Conference on its sixth session**

127. At its 10th meeting, the Conference adopted the report on its sixth session (CTOC/COP/2012/L.1 and Add.1-9), as orally amended.

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<sup>30</sup> Ibid., annex V.