Report of the meeting of the Working Group on the Smuggling of Migrants held in Vienna from 11 to 13 September 2019

I. Introduction

1. Pursuant to resolution 5/3, adopted by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fifth session, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The first meeting of the Working Group was held from 30 May to 1 June 2012, the second from 11 to 13 November 2013, the third from 18 to 20 November 2015, the fourth from 11 to 13 September 2017 and the fifth on 4 and 5 July 2018.

2. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference decided, inter alia, that the Working Group would be a constant element of the Conference of the Parties, forwarding its reports and recommendations to the Conference, and encouraged the Working Group to consider meeting on an annual basis, as needed, and to hold its meetings consecutively, in order to ensure the effective use of resources.

II. Recommendations

3. At its meeting held in Vienna from 11 to 13 September 2019, the Working Group on the Smuggling of Migrants adopted the recommendations presented below.

A. General recommendations

Recommendation 1

States parties should consider developing model legislative and operational guidelines based on existing relevant international and regional agreements and arrangements to facilitate cooperation.

Recommendation 2
States parties should convene forums for relevant experts and government officials to share best practices in combating the smuggling of migrants.

Recommendation 3
States parties should consider establishing regional networks of police officers, prosecutors and other law enforcement personnel specialized in the smuggling of migrants in order to share relevant information about such smuggling on a timely basis, in accordance with domestic law, including information on the communication tools used by smugglers.

Recommendation 4
States parties should consider, in accordance with domestic law and as necessary, ensuring the availability of interpretation for interacting with smuggled migrants so as to support investigations and judicial proceedings in cases involving the smuggling of migrants and to protect the rights of smuggled migrants.

Recommendation 5
States parties should take into consideration the placement of liaison officers and magistrates, as well as other competent authorities, in accordance with domestic law, to accelerate useful information-sharing between countries along smuggling routes. Such placement should be framed under bilateral or multilateral agreements or arrangements between the States concerned.

Recommendation 6
States parties should ensure that up-to-date information on their competent authorities remains accessible to other States, including through the online directory of competent national authorities on the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal.

Recommendation 7
States parties should develop directories to enable police, immigration and other law enforcement officials and prosecutors to communicate on a timely basis with their counterparts in other countries.

Recommendation 8
States parties are encouraged to include experts and operational personnel among their representatives to the Working Group on the Smuggling of Migrants.

Recommendation 9
States parties are encouraged to collect relevant data and examine the possibility of providing them to the United Nations Office on Drugs and Crime (UNODC), on a voluntary basis, to support the continuation of its global research and analysis efforts on the smuggling of migrants. Such research and analysis should be carried out in close cooperation with States parties and on the basis of the statistical information provided by them.
Recommendation 10
States parties should take measures to ensure that public officials who have contact with migrants in irregular situations are systematically sensitized to the associated risks to which smuggled migrants are exposed.

Recommendation 11
States parties are encouraged, consistent with the provisions of the United Nations Convention against Transnational Organized Crime and their domestic law, to explore and implement measures to identify, review and respond to requests for international cooperation, in particular mutual legal assistance requests involving the smuggling of migrants, on a timely basis.

C. Recommendations on the smuggling of migrants by air and its facilitation through document fraud

Recommendation 12
States parties are encouraged to strengthen their capacity to identify fraudulent documents, including, as necessary, by preparing and disseminating guidelines for relevant authorities, as well as by providing practitioners with appropriate equipment and training.

Recommendation 13
States parties should, without prejudice to international commitments on the free movement of people, cooperate to establish appropriate procedures in airports to prevent and combat the smuggling of migrants by air.

Recommendation 14
States parties should consider using an appropriate multidisciplinary approach, which comprises different kinds of interventions for police, prosecutors, border guards, non-governmental organizations and the private sector, to prevent and combat the smuggling of migrants.

Recommendation 15
States parties should consider means of sharing information, in line with domestic law, with a view to reducing opportunities for the smuggling of migrants to hosting countries on the occasion of international sporting or other major events.

Recommendation 16
States parties should raise awareness of the risks involved in the criminal activities carried out by smugglers of migrants, including by disseminating information and analysis on emerging trends and modalities in the smuggling of migrants to relevant government agencies, the general public and civil society, as appropriate, and in line with domestic law.

Recommendation 17
States parties are encouraged to make use of relevant information that is publicly available on websites and other online platforms, which may facilitate the smuggling of migrants, in order to understand criminal trends and reinforce the methods in place to counter such crime.

Recommendation 18
States parties are encouraged to consider, consistent with international and domestic law, collecting and sharing with each other, upon request, the biometric information of travellers in order to improve the identification of smuggling routes and the
detection of fraudulent documents and organized criminal groups that facilitate the smuggling of migrants through document fraud.

Recommendation 19

States parties are encouraged, consistent with international and domestic law, to consider sharing information through competent national authorities about the interdiction of shipments of so-called “feeder documents” that contain identities used repeatedly by organized criminal groups to facilitate travel by air, in order to enhance the ability of relevant authorities to identify and detect the smuggling of migrants through the use of fraudulent documents.

Recommendation 20

States parties are encouraged to expand their cooperation with commercial air carriers to detect and prevent travel by individuals with fraudulent documents, in order to identify travel patterns and disrupt the routes utilized by organized criminal groups involved in the smuggling of migrants.

Recommendation 21

States parties should seek to strengthen their capabilities by taking advantage of, or benefiting from, technical assistance provided upon their request by UNODC and relevant partners to promote their national abilities to combat the smuggling of migrants by air, including through the Airport Communication Project.

Recommendation 22

States parties are invited to cooperate so as to establish and/or utilize databases comprising all samples of travel documentation of countries, where appropriate and consistent with domestic law.

Recommendation 23

States parties should consider strengthening cooperation among border control agencies, as appropriate, to prevent and detect the smuggling of migrants by air, inter alia, establishing and maintaining direct channels of communication.

Recommendation 24

States parties should consider adapting their responses to the smuggling of migrants to the multimodal modi operandi of numerous transnational migrant smuggling networks, including by enhancing cooperation and information-sharing with countries along smuggling routes, consistent with international and domestic law.

III. Summary of deliberations

4. At its 1st meeting, on 11 September 2019, the Working Group considered agenda item 2, entitled “Information-sharing on the smuggling of migrants as a form of transnational organized crime, consistent with article 10 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and article 28 of the United Nations Convention against Transnational Organized Crime”.

5. Discussions on agenda item 2 commenced with presentations by three national experts. The first panellist was Modiri Matthews, Chief Director, Inspectorate, Department of Home Affairs of South Africa, on behalf of the Group of African States. The second panellist was Nancy Velazquez, Officer, Deputy Prosecutor for Regional Control, Criminal Proceedings and Protection of Human Rights, General Prosecutor’s Office of Mexico, on behalf of the Group of Latin American and Caribbean States. The final panellist was Salvatore Vella, Deputy Chief Prosecutor at the Court of Agrigento, Italy, on behalf of the Group of Western European and other States.
6. Mr. Matthews gave an overview, recalling that the concept of the smuggling of migrants was, at times, mistakenly treated as a trafficking issue, and noting that the concept of financial or material benefit in the definition of the smuggling of migrants was too often ignored. He illustrated the point by explaining that, despite the good legal framework of South Africa, immigration officials tended to take criminal action against smuggled migrants instead of focusing on the syndicates organizing the smuggling. He added that, jointly with UNODC, South Africa had conducted surveys among smuggled migrants to gather data and gain an understanding of the drivers behind smuggling. In its cooperation with the Southern African Development Community, South Africa contributed data to the Community’s regional information management system. Those efforts had shown, for example, that 75 per cent of smuggled migrants in the country were men. He concluded by providing key recommendations to be included in the report.

7. Ms. Velazquez began her presentation by showing a video produced to educate viewers on the many negative realities faced by those who rely upon migrant smugglers, including being subjected to human rights violations and criminal victimization. She added that Mexico was a transit country that witnessed countless violations against migrants in the context of smuggling operations, such as kidnapping and gender-based violence. She described the achievements under the national training programme on preventing and combating the smuggling of migrants in Mexico (SOMMEX), jointly implemented with UNODC and several stakeholders, noting, for example, the training of 300 officials in 2018 in workshops conducted to sensitize criminal justice practitioners. She further explained that the resulting enhanced empathy and understanding of such actors, including through the organization of joint training with officials from the United States of America and other countries, had resulted in the rescue of 17,376 smuggled migrants as a result of the efforts of the prosecution services of Mexico.

8. Mr. Vella described how the smuggling of migrants had affected the Italian island of Lampedusa. He stressed that, although there were no “standard” journeys for smuggling by sea in the Mediterranean, some modi operandi had been identified. He described six different modi operandi used by smugglers to carry migrants to the shores of Italy. Until 2016, many migrants had arrived aboard fishing boats that had been configured to maximize the number of persons who could be transported. He noted that, upon arrival or seizure, skippers working in smuggling networks would hide among migrants to avoid arrest and would then attempt to return to their communities in North Africa. Large-scale arrests had proved to be a deterrent to smugglers and, as a result, methods had changed, and smugglers had begun to use unstable rubber boats. In such cases, migrants were given basic instructions on how to pilot the boats themselves. That approach had increased profits for smugglers and reduced their exposure to arrest. He concluded by offering a number of recommendations, including establishing specialized prosecution networks, developing regional information-sharing mechanisms for biometric data, facilitating the exchange of liaison officers and sharing information on the role of non-governmental organizations known to be active in assisting smuggled persons.

9. After those presentations, the panellists exchanged additional information with the participants in response to several questions and comments on specific challenges and examples of promising practices. A number of those questions and comments were focused on ways to strengthen information-sharing and other forms of cooperation.

10. Several speakers reflected on the need to share information regarding the smuggling of migrants. Speakers shared promising practices to encourage cooperation, including sharing contact points between law enforcement authorities and immigration authorities; facilitating cooperation between financial investigation services, banking federations and money transfer agencies; and the use of investigating judges. One speaker reflected on efforts to meet the basic needs of stranded migrants and assist the voluntary return of those migrants not in need of protection. Another highlighted the use of fraudulent documents to facilitate
smuggling of migrants offences. One speaker noted an intention to seek membership in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime in 2020 to further strengthen engagement in combating the smuggling of migrants and trafficking in persons.

11. At its 2nd meeting, on 12 September 2019, the Working Group considered agenda item 3, entitled “Smuggling of migrants by air and its facilitation through document fraud”.

12. Discussions on agenda item 3 commenced with presentations by two national experts. The first panellist was Rohan Coelho, International Liaison Officer, Canada Border Services Agency, on behalf of the Group of Western European and other States. The second panellist was Mohamed Ezzat, Chief Prosecutor in the International Cooperation Division of the Office of the Prosecutor General (Egypt), on behalf of the Group of African States.

13. Mr. Coelho provided an operational perspective, outlining the efforts of Canada to combat the smuggling of migrants. He emphasized that such smuggling was not a homogeneous criminal activity, as push and pull factors, the price of the trip, the routing of travel, the documents used and the status of migrants upon arrival could all vary significantly in any particular instance.

14. He noted that smuggled migrants themselves could be a valuable source of information for the purpose of increasing knowledge on smuggling incidents by air and, more broadly, on smuggling networks and new modi operandi. Such information could be shared domestically and internationally, as appropriate. Mr. Coelho also noted the value of international liaison officers, who could be integrated with officers from other nations to form teams focused on countering the smuggling of migrants. He provided examples of experiences in countering fraudulent documents, including the role of the National Document Centre. He concluded by noting strategies used in Canada to combat travel-related document fraud, including communication, data analysis and information-sharing, document security, training and capacity-building assistance.

15. In the presentation that followed, Mr. Ezzat mentioned that Egypt had ratified the relevant international and regional conventions and protocols, and he outlined Egypt’s national legal framework to combat the smuggling of migrants, including its Constitution, legislation (in particular Law No. 82 of 2016), two national strategies and guiding plans. He noted that, while the most common mode of smuggling migrants through Egypt in recent years had been by sea, an increase in the smuggling of migrants by air was noticeable. Mr. Ezzat reflected on changing modalities and a range of illegal means used by organized criminal groups engaged in smuggling. He provided examples of cases in which forged documents and websites had been used to obtain visas, noting that biometric passports were one means that Egypt used to detect fraudulent documents. He outlined many efforts to overcome challenges presented by that form of smuggling, including awareness-raising among potential smuggled migrants, as well as among law enforcement and prosecutorial authorities. Practical guides produced in collaboration with UNODC and the International Organization for Migration had been effective in raising awareness. He also outlined how memorandums of understanding between public prosecutors in Egypt and their counterparts in a number of countries facilitated mutual judicial cooperation and the exchange of information to eradicate criminal networks involved in the smuggling of migrants.

16. After those presentations, the panellists exchanged additional information with the participants in response to several questions and comments regarding specific measures undertaken to respond to the smuggling of migrants by air. A number of those questions and comments focused on promising practices and ways to strengthen cooperation bilaterally, as well as regionally and multilaterally.

17. In the discussion that followed, speakers expressed their commitment to disrupting the smuggling of migrants by air, stressing the intrinsic connection
between that form of smuggling and document fraud. Many speakers noted the complex methods used by smugglers to avoid detection by border officials, including fraudulent passports and visas, organized visa fraud and the abuse of online visa systems.

18. In combating such challenges, speakers shared promising practices to minimize the movement of improperly documented passengers and to reduce the use of international airports as hubs for organized crime. Many speakers highlighted the importance of sharing information as critical to detecting, investigating and prosecuting the smuggling of migrants by air. Speakers noted the value of sharing intelligence data and images of genuine, false and forged documents; of collaboration between airport authorities; and of creating networks of specialists who are able to detect key individuals and networks involved in the smuggling of migrants. Several speakers highlighted the value of national institutions to combat the smuggling of migrants, as well as databases and document centres to facilitate information exchange, including with front-line officers. One speaker reflected on the scarcity of data concerning the smuggling of migrants by air, noting the value of the issue paper on the smuggling of migrants by air published by UNODC in 2010 as a tangible source of information on that form of smuggling. Another speaker highlighted the implementation of the United Nations Convention against Transnational Organized Crime and the Smuggling of Migrants Protocol as a means of facilitating international cooperation to combat the crime.

19. Under agenda item 4, the Chair presented an index of the recommendations adopted by the Working Group at its first four meetings, as well as a compilation of those recommendations.

20. The Working Group discussed possibilities for thematic work in its future meetings and formulated a related proposal to capture them.

21. Subject to the deliberations of the extended Bureau of the Conference of the Parties, the Working Group proposes, without prejudice to any further proposals put forward by States parties, to discuss the following topics as priorities at its future meetings: (a) analysis of the impact that the availability of regular channels of migration has in reducing demand for the smuggling of migrants; (b) use of advanced investigative techniques, including financial and digital investigations, in combating migrant smuggling crimes; (c) enhancement of bilateral, regional and international cooperation in investigating, collecting evidence on and prosecuting migrant smuggling crimes; (d) best practices in the establishment and operation of joint investigation teams and specialized prosecution units; (e) successful strategies concerning the use of technology to prevent and investigate smuggling; (f) how the media can support the development, implementation and assessment of anti-smuggling responses; (g) effective models of cooperation in combating the smuggling of migrants; (h) adapting investigations to respond to the multimodal smuggling of migrants; (i) good practices in cooperating with the private sector to prevent and combat the smuggling of migrants; (j) sharing national procedures to investigate the smuggling of migrants with a view to enhancing international cooperation and the possible harmonization of approaches; (k) how to use information and communications technology to respond to criminal groups engaged in the smuggling of migrants that are increasingly using cyberspace; (l) how to strengthen the capacity to prosecute migrant smuggling cases; (m) the promotion of the exchange of information, accessible to criminal system operators, through basic forms, if possible by electronic means, that are reliable and useful in criminal proceedings; (n) the effect of natural disasters, conflicts and crises on trends in organized criminal groups and on routes for the smuggling of migrants; and (o) adopting global approaches in order to address the causes of the smuggling of migrants.
IV. Organization of the meeting

A. Opening of the meeting

22. The sixth meeting of the Working Group on the Smuggling of Migrants was held in Vienna from 11 to 13 September 2019. Five meetings were held.

23. The meeting was opened by Francesco Testa (Italy), Chair of the Working Group. He addressed the meeting and presented an overview of the mandate of the Working Group, its objectives and the subjects under its consideration.

B. Statements

24. General introductory statements were made by a representative of the Secretariat under agenda items 1, 2 and 3.

25. Under agenda item 2, with the Chair presiding, the discussion was led by the following panellists: Mr. Vella (Italy), Ms. Velazquez (Mexico) and Mr. Matthews (South Africa).

26. Under agenda item 3, with the Chair presiding, the discussion was led by the following panellists: Mr. Coelho (Canada) and Mr. Ezzat (Egypt).

27. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Smuggling of Migrants Protocol: Belgium, Canada, Egypt, European Union, Gambia, Honduras, Indonesia, Netherlands, New Zealand, Russian Federation, Senegal, South Africa, Sudan and United States.

28. Under agenda items 2 and 3, statements were made by representatives of the following States signatories to the Smuggling of Migrants Protocol: Sri Lanka and Thailand.

29. The observers for Colombia and the Parliamentary Assembly of the Mediterranean, an intergovernmental organization, also made statements.

30. The observer for the International Criminal Police Organization (INTERPOL), an intergovernmental organization, also made a statement.

31. Under agenda item 4, statements were made by representatives of the following States parties to the Smuggling of Migrants Protocol: Canada, Egypt, Honduras, Italy, Mexico, Netherlands and United States.

32. Thailand, a State signatory to the Smuggling of Migrants Protocol, also made a statement.

33. The observer for Morocco also made a statement.

C. Adoption of the agenda and organization of work

34. At its 1st meeting, on 11 September 2019, the Working Group adopted by consensus the following agenda:

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.

4. Other matters.
5. Adoption of the report.

D. Attendance

35. The following parties to the Smuggling of Migrants Protocol were represented at the meeting: Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Canada, Chile, Costa Rica, Côte d’Ivoire, Croatia, Cyprus, Czechia, Djibouti, Dominican Republic, Egypt, El Salvador, European Union, Finland, France, Gambia, Germany, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iraq, Italy, Japan, Kenya, Kuwait, Lebanon, Libya, Malta, Mexico, Monaco, Myanmar, Netherlands, New Zealand, Nigeria, Norway, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Tunisia, Turkey, United States, Uruguay and Venezuela (Bolivarian Republic of).

36. The following States signatories to the Smuggling of Migrants Protocol were represented by observers: Bolivia (Plurinational State of), Sri Lanka and Thailand.

37. The following States that are not parties or signatories to the Smuggling of Migrants Protocol were represented by observers: Colombia, Holy See, Iran (Islamic Republic of), Israel, Malaysia, Morocco, Nepal, Pakistan, Singapore, State of Palestine, United Arab Emirates and Yemen.

38. The Sovereign Order of Malta, an entity maintaining a permanent observer office, was represented by an observer.

39. The following intergovernmental organizations were represented by observers: International Organization for Migration, INTERPOL, League of Arab States and Parliamentary Assembly of the Mediterranean.

40. A list of participants is contained in document CTOC/COP/WG.7/2019/INF/1/Rev.1.

E. Documentation

41. The Working Group had before it the following:

(a) Annotated provisional agenda (CTOC/COP/WG.7/2019/1 and CTOC/COP/WG.7/2019/1/Corr.1);

(b) Background paper prepared by the Secretariat on information-sharing on the smuggling of migrants as a form of transnational organized crime, consistent with article 10 of the Protocol on the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and article 28 of the United Nations Convention against Transnational Organized Crime (CTOC/COP/WG.7/2019/2);

(c) Background paper prepared by the Secretariat on the smuggling of migrants by air and its facilitation through document fraud (CTOC/COP/WG.7/2019/3);

(d) Background paper prepared by the Secretariat containing an index of recommendations adopted by the Working Group on the Smuggling of Migrants at its first five meetings (CTOC/COP/WG.7/2019/4);

(e) Background paper prepared by the Secretariat containing a compilation of the recommendations adopted by the Working Group on the Smuggling of Migrants at its first five meetings (CTOC/COP/WG.7/2019/5).
V. Adoption of the report