

Distr.: General
4 July 2012

Original: English

Expert group on protection against trafficking in cultural property

Vienna, 27-29 June 2012

Report on the meeting of the expert group on protection against trafficking in cultural property held in Vienna from 27 to 29 June 2012

I. Introduction

1. In its resolution 66/180, the General Assembly welcomed the decision taken by the Economic and Social Council in its resolution 2010/19 to convene at least one additional meeting of the open-ended intergovernmental expert group on protection against trafficking in cultural property established within the framework of the Commission on Crime Prevention and Criminal Justice, and encouraged Member States and other donors to support the convening of the expert group meeting and to submit to the Commission at its twenty-second session practical proposals for implementing, where appropriate, the recommendations made by the expert group at its meeting held in Vienna in November 2009, with due attention to aspects of criminalization, international cooperation and mutual legal assistance.
2. Also in that resolution, the Assembly requested the United Nations Office on Drugs and Crime (UNODC), within its mandate, in consultation with Member States and in close cooperation, as appropriate, with other competent international organizations, to further explore the development of specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property.
3. In that resolution, the Assembly also invited Member States to continue to submit, in writing, comments on the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, including views on its potential utility and on whether any improvements to it should be considered at the earliest possible date, in order to assist the Secretariat in preparing an analysis and a report to be presented to the open-ended intergovernmental expert group on protection against trafficking in cultural property at its next meeting, as well as to the Commission on Crime Prevention and Criminal Justice at its twenty-second session.



II. Recommendations

A. Guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property

4. Under agenda item 2 (a), entitled “Measures to strengthen crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking: guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property”, the expert group reviewed the draft of the specific guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property prepared by UNODC. The expert group expressed concern at the seriousness of the threat, particularly due to the growing involvement of organized criminal groups in trafficking in cultural property. There was general support for the importance of developing draft guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property. Several delegations emphasized that the draft guidelines should be appropriately streamlined and made fully consistent with existing international legal instruments and efforts of other relevant intergovernmental organizations. Delegations discussed a number of draft guidelines in detail and made proposals for their improvement. The Secretariat took note of the comments with a view to conducting further work on the matter in close consultation with Member States.

B. Review of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

5. Under agenda item 2 (b), entitled “Measures to strengthen crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking: review of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property”, the expert group considered the variety of views expressed by States during the meeting and as reflected in document UNODC/CCPCJ/EG.1/2012/2 and conference room paper UNODC/CCPCJ/EG.1/2012/CRP.1.

6. The expert group recommended that the Commission on Crime Prevention and Criminal Justice request UNODC to carry out further work and analysis on the model treaty on the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, taking into account further comments to be submitted by Member States in accordance with paragraph 8 of General Assembly resolution 66/180.

C. Practical proposals for implementing the recommendations made by the expert group at its first meeting, in 2009

7. Under agenda item 3, entitled “Consideration of the practical proposals for implementing the recommendations made by the expert group on protection against trafficking in cultural property at its first meeting, in 2009, with due attention to aspects of criminalization and international cooperation, including mutual legal

assistance”, the expert group discussed practical proposals for implementing, where appropriate, the recommendations made by the expert group at its 2009 meeting. The delegations also submitted to the Commission on Crime Prevention and Criminal Justice the practical proposals contained in paragraphs 8 and 9 below, based on the recommendations made at the first meeting, in 2009, taking into account the ongoing discussion on the draft guidelines.

8. With respect to the criminalization of trafficking in cultural property, the Commission may wish to do the following:

(a) Request UNODC to provide technical assistance in the area of protection against trafficking in cultural property, including legislative drafting assistance, upon request taking into consideration the recommendations of the expert group on protection against trafficking in cultural property at its first meeting, in 2009, the ongoing work of UNODC on the draft guidelines and existing international instruments, including the Organized Crime Convention. In that regard, the Commission may wish to request UNODC to develop practical technical assistance tools, including a manual for practitioners;

(b) Invite Member States to consider strengthening and making more effective their national legal systems with a view to providing adequate coordinated responses to trafficking in cultural property, especially trafficking involving organized criminal groups. Such efforts should take into account the recommendations of the expert group at its first meeting, in 2009;

(c) Request UNODC to provide training to specialized law enforcement agencies on protection against trafficking in cultural property in close cooperation with relevant intergovernmental organizations;

(d) Request UNODC to collect and disseminate information and best practices regarding protection against trafficking in cultural property, international cooperation, crime prevention, involvement of organized criminal groups and private-public cooperation with respect to trafficking in cultural property;

(e) Request UNODC to further explore and collect best practices from States with regard to encouraging the promotion of cooperation between representatives of the public and private sectors with regard to countering trafficking in cultural property, especially via the Internet;

(f) Requests UNODC to consider, where appropriate, addressing trafficking in cultural property in its regional, interregional and thematic programmes;

(g) Request UNODC, within its mandate and in close cooperation with relevant international organizations, to raise awareness of the issue of trafficking in cultural property and related offences at the regional and international levels, including through workshops, seminars and similar events.

9. With respect to international cooperation to counter trafficking in cultural property, the Commission may wish to do the following:

(a) Invite Member States that have not yet done so to consider designating contact points to facilitate international cooperation for the purpose of protection against trafficking in cultural property;

(b) Invite Member States to consider enhancing cooperation between their law enforcement and criminal justice agencies responsible for investigation and prosecution of trafficking in cultural property, the detection of illicit movement of cultural property and combating the illicit trade in cultural property. This may include joint investigative arrangements and special investigative techniques as provided for in the Organized Crime Convention. It may also include channels of communication for more efficient exchanges of information and mechanisms for the establishment of a national database on crimes against cultural property and for interconnecting inventories and databases on cultural property;

(c) Invite Member States to consider practical ways of ensuring the optimum use of the mutual legal assistance process for protection against trafficking in cultural property, including through informal contacts and consultations among national competent authorities and making use of the UNODC Mutual Legal Assistance Request Writer Tool and the directory of competent national authorities;

(d) Invite Member States to consider entering into bilateral agreements for protection against trafficking in cultural property, if feasible, and practical ways to simplify the process of entering into bilateral agreements such as:

- (i) Using the Organized Crime Convention as a legal basis for cooperation for protection against trafficking in cultural property, whenever feasible;
- (ii) Making use of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property;

(e) Request UNODC to create a portal on its website, containing all documents, tools and relevant information regarding trafficking in cultural property produced by UNODC, including a link to the United Nations Educational, Scientific and Cultural Organization (UNESCO) database of national cultural heritage laws. In this regard, Member States should be invited to provide UNODC and UNESCO with relevant laws and regulations on protection against trafficking in cultural property;

(f) Request UNODC to further strengthen engagement and cooperation with UNESCO, the International Institute for the Unification of Private Law (Unidroit), the International Council of Museums, the International Criminal Police Organization (INTERPOL), the World Customs Organization (WCO) and other relevant international organizations and explore possible collaboration with the International Committee of the Blue Shield on protection against trafficking in cultural property.

D. Next steps

10. The expert group recommended that the Commission consider the possibility of convening another meeting of the intergovernmental expert group on protection against trafficking in cultural property in order to allow Member States to further consider these matters.

III. Organization of the meeting

A. Opening of the meeting

11. The second meeting of the open-ended intergovernmental expert group on protection against trafficking in cultural property was held in Vienna from 27 to 29 June 2012, during which six individual meetings were held.

12. The First Vice-Chair of the Commission on Crime Prevention and Criminal Justice at its twenty-first session made an opening statement. The elected Chair of the expert group addressed the meeting, presenting an overview of the mandate of the group, its objective and matters under its consideration.

13. At the opening meeting, statements were made by the representatives of the following States: El Salvador (on behalf of the States Members of the United Nations that are members of the Group of 77 and China) and Ecuador (on behalf of the Group of Latin American and Caribbean States). A statement was also made by a representative of the Secretariat.

14. Statements were made by representatives of the following States: Russian Federation, United States of America, France, Canada, Italy, Germany, Ecuador, China, Mexico, Switzerland, Japan, Bulgaria, El Salvador, United Kingdom of Great Britain and Northern Ireland, Israel, Iran (Islamic Republic of), Romania, Turkey, Algeria, Belgium, Egypt, Chile, Indonesia, Spain, Panama, Peru, Poland and Iraq.

15. Statements were also made by the observers for UNESCO, Unidroit and the WCO Regional Intelligence Liaison Office for Western Europe.

B. Election of officers

16. At its 1st meeting, on 27 June 2012, the open-ended intergovernmental expert group on protection against trafficking in cultural property elected the following officers by acclamation:

Chair: Rosario Salvatore Aitala (Italy)

Vice-Chair: Simona Marin (Romania)

C. Adoption of the agenda and organization of work

17. At its 1st meeting, on 27 June 2012, the expert group adopted by consensus its provisional agenda and organization of work:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Measures to strengthen crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking:

- (a) Guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property;
 - (b) Review of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property.
3. Consideration of the practical proposals for implementing the recommendations made by the expert group on protection against trafficking in cultural property at its first meeting, in 2009, with due attention to aspects of criminalization and international cooperation, including mutual legal assistance.
4. Other matters.
5. Adoption of the report.

D. Attendance

18. At the second meeting of the expert group, held in Vienna from 27 to 29 June, the following States were represented: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Kenya, Lebanon, Malaysia, Mexico, Netherlands, Nicaragua, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, United Kingdom, United States and Venezuela (Bolivarian Republic of).

19. Palestine, an entity having received a standing invitation from the General Assembly to participate as an observer in the sessions and work of all international conferences convened under its auspices, was represented.

20. UNESCO, a specialized agency, was represented by an observer.

21. The following intergovernmental organizations were represented by observers: Unidroit and the WCO Regional Intelligence Liaison Office for Western Europe.

22. A list of participants is contained in UNODC/CCPCJ/EG.1/2012/INF.1/Rev.2.

E. Documentation

23. The documents before the expert group are listed in the annex to the present report.

Annex

List of documents before the expert group on protection against trafficking in cultural property

<i>Document number</i>	<i>Agenda item</i>	<i>Title or description</i>
UNODC/CCPCJ/EG.1/2012/1	1 (b)	Provisional agenda and annotations
UNODC/CCPCJ/EG.1/2012/2	2 (b)	Report of the Secretariat on the potential utility of and improvements to the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property
UNODC/CCPCJ/EG.1/2012/3	3	Discussion paper on practical proposals for implementing the recommendations made by the expert group on protection against trafficking in cultural property at its first meeting, in 2009
UNODC/CCPCJ/EG.1/2012/CRP.1	2 (b)	Note by the Secretariat containing additional comments on the potential utility of and improvements to the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property
UNODC/CCPCJ/EG.1/2012/CRP.2	2 (a)	Draft guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property
UNODC/CCPCJ/EG.1/2012/L.1	5	Draft report
UNODC/CCPCJ/EG.1/2009/2	3	Report of the expert group on protection against trafficking in cultural property
E/CN.15/2012/15	2 (a)	Report of the Secretary-General on crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking