



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

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

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

Report of the Secretariat

I. Introduction

1. In its resolution 5/1, entitled “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 noted with concern the emergence, in the previous decade, of new forms and dimensions of transnational organized crime, as it had already noted in its decision 4/2, in which it had been emphasized that the Convention, as a global instrument with wide adherence, offered the broadest scope of cooperation to address existing and emerging forms of transnational organized crime. In that resolution, the Conference also decided to continue to exchange information on experience and practices on the application of the Convention to new forms and dimensions of transnational organized crime.

2. The present report has been prepared pursuant to Conference resolution 5/6, entitled “Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime”, in which the Conference endorsed the recommendations of the meeting of the Open-ended Interim Working Group of Government Experts on Technical Assistance held on 19 and 20 October 2010, in which the Working Group had requested the United

* CTOC/COP/2012/1.



Nations Office on Drugs and Crime (UNODC) to provide technical assistance to help Member States to apply, where appropriate, the provisions of the Convention to new forms and dimensions of transnational organized crime within the scope of the Convention that were of common concern to States parties, and to report to the Conference at its sixth session on progress made on that matter.

II. Application of the Organized Crime Convention to new forms and dimensions of transnational organized crime

3. The Organized Crime Convention adopts a flexible approach, which takes into account the seriousness of the acts it covers, rather than limiting itself to a predetermined and rigid list of offences. The Convention applies to offences that are transnational in nature and involve organized criminal groups. Pursuant to the Convention, States parties can cooperate on a wide range of offences related to transnational organized crime. The definition of “serious crime” in article 2, paragraph (b), as “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty” enables the Conference of the Parties to identify new forms and dimensions of transnational organized crime, with a view to facilitating a more uniform approach at the global level, and considerably enhances the potential use of the Convention for the purposes of international cooperation.

4. The definition of “serious crime” is also a component of the definition of an organized criminal group and is thus an important element in establishing as an offence, pursuant to article 5, participation in such a group.

5. If States parties wish to establish specific acts, including new forms and dimensions of organized crime, as criminal offences, in addition to the acts covered by articles 5, 6, 8 and 23 of the Convention or by its Protocols, there will be the need for a common approach among States parties: to stipulate that deprivation of liberty for at least four years should be the penalty for such offences. Active discussion and agreement among States parties in that area would further promote the use of the Convention as an effective tool for international cooperation.

6. States may find that new forms and dimensions of transnational organized crime pose more challenges to effective investigations and prosecutions, and to international cooperation, than more traditional ones. That is an additional reason for exploring methodologies such as joint investigations and special investigative techniques, as well as all forms of cooperation between law enforcement and judicial authorities, in order to address new transnational group structures and modi operandi arising from the involvement of organized criminal groups in new areas of crime. The forms and manifestations of transnational organized crime are continually evolving. In article 26 of the Convention, it is stated that States parties should take appropriate measures to encourage persons who participate in or who have participated in organized criminal groups to supply information useful to competent authorities on such matters as the identity, nature, composition, structure, location or activities of organized criminal groups and offences that organized criminal groups have committed or may commit. Pursuant to article 28, States parties should consider analysing trends in organized crime in their territory, the circumstances in which organized crime operates, as well as the professional groups

and technologies involved, and sharing such analytical expertise with each other and through international and regional organizations.

III. Overview of technical assistance activities

A. Cybercrime

7. At the high-level segment on new and emerging forms of crime held on 18 October 2010, the first day of the fifth session of the Conference, cybercrime was recognized as one of the forms of emerging crimes into which criminal groups had expanded their activities. Many acts of cybercrime may fall within the scope of application of the Convention, while others may be committed by individuals acting alone or by groups of persons that do not fall within the definitions of “organized criminal group” or “structured group” found in article 2 of the Convention. Nonetheless, the involvement of transnational organized criminal groups is increasingly evident in a range of forms of cybercrime, including the operation of global botnets, which are designed to fraudulently obtain credit card and banking information, and the production and distribution of child pornography over the Internet.

8. Irrespective of whether acts of cybercrime fall within the scope of application of the Convention, an effective crime prevention and criminal justice response is central to reducing and preventing the increasing threat posed by cybercrime to property, persons, private businesses and Governments. Such acts include: those directed against the confidentiality, integrity and availability of computer data and systems, such as illegal access to a computer system; computer-related acts for personal or financial gain, including computer-related fraud or forgery; and specific computer-related acts, including computer-related acts involving racism or xenophobia, computer-related acts involving the production, distribution or possession of child pornography and computer-related acts in support of terrorism offences.

9. Activities undertaken by UNODC in the area of countering cybercrime have close synergies with the technical assistance provided to States in order to help them implement the Convention and its Protocols. The provisions of the Convention on law enforcement cooperation (article 27) and training and technical assistance (article 29) in particular, refer to transnational organized crime committed through the use of modern technology. The fact that many forms of cybercrime have a transnational element, combined with the fact that electronic evidence, central to a cybercrime investigation, may exist only for a matter of days or even hours, necessitates the establishment of channels of communication between competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information on offences, as referred to in article 27 of the Convention. Similarly, as electronic evidence becomes an ever more central component of investigations into all types of crime, including conventional forms of crime, there is a need for training programmes for law enforcement and criminal justice personnel to increasingly reflect specific elements such as the collection and handling of electronic evidence to prevent, detect and combat both online and “offline” offences.

10. Technical assistance delivered by UNODC in the area of countering cybercrime pursuant to, inter alia, General Assembly resolution 65/230 and Commission on Crime Prevention and Criminal Justice resolution 20/7 takes fully into account the relevant provisions and international cooperation mechanisms of the Convention. In 2012, UNODC finalized a global programme against cybercrime, which adopted a holistic approach focusing on: (a) delivery of training for law enforcement and criminal justice practitioners on techniques for investigating and criminal justice approaches to cybercrime; (b) prevention and raising awareness of cybercrime; (c) enhanced national, regional and international cooperation in addressing cybercrime; and (d) data collection, research and analysis on the links between organized crime and cybercrime. Training will be undertaken in cooperation with a range of partners, including the International Telecommunication Union (ITU), the private sector and academic experts. All of the activities in the programme are designed to lead to an increase in long-term, sustainable national capacity for preventing and combating cybercrime.

11. In February 2012, an initial assessment mission was undertaken in a Central American country, at the request of the Government, for the purpose of further developing national capacity to counter cybercrime. Organized jointly by the UNODC headquarters and the Regional Office for Central America and the Caribbean, the mission worked with a cross-departmental Government working group to review and revise the legislative framework for cybercrime. A follow-up mission is to take place in the course of 2012, with a view to implementing a comprehensive national approach to countering cybercrime, including prevention and awareness-raising activities and capacity-building for law enforcement and criminal justice professionals.

12. To assist countries in responding to a questionnaire developed to gather information for a comprehensive study on the problem of cybercrime and responses to it by Member States, which is being conducted pursuant to General Assembly resolution 65/230, UNODC organized workshops in Nairobi on 16 and 17 April 2012 for 10 countries from East and Southern Africa; in Beirut on 26 and 27 April 2012 for 12 countries from West Asia; and in Bangkok on 7 and 8 May 2012 for 11 countries from South-East and South Asia. The workshops also provided an opportunity to obtain information on the technical assistance needs of those countries in the area of cybercrime. The workshops showed that there is: (a) an identified need for basic training for policymakers and decision makers in order to increase the priority placed on cybercrime issues; (b) the need for further development of mechanisms for both formal and informal international cooperation between law enforcement officers and prosecutors; (c) the need for improved access to and training on forensics software and hardware for conducting cybercrime investigations; and (d) the need for promotion of public-private partnerships in order to strengthen measures to prevent cybercrime. Using as a basis the outcome of the workshops, UNODC is presently exploring options for the delivery of technical assistance within the framework of the global programme against cybercrime and in conjunction with relevant partners, including ITU and, for countries in East and Southern Africa, the secretariat to the Common Market for Eastern and Southern Africa.

13. During 2012, UNODC continued to act as the secretariat of the Expert Group to Conduct a Comprehensive Study on Cybercrime, which is conducting the

comprehensive study of the problem of cybercrime and responses to it by Member States with a view to examining options to strengthen existing and propose new national and international legal or other responses to cybercrime. Under the guidance of the Expert Group, UNODC developed a questionnaire to be sent to Member States, private sector entities, academic institutions and intergovernmental organizations. Information gathered through the questionnaire was analysed by UNODC and is being used as the basis for the study, the drafting of which has already commenced. Subject to the availability of financial resources, the next meeting of the Expert Group, during which it will review the preliminary results, is to be held before the end of 2012. The final results of the study are expected to be presented to the twenty-second session of the Commission on Crime Prevention and Criminal Justice, in 2013.

14. UNODC was also requested, by the Economic and Social Council in its resolution 2011/33, to carry out a study facilitating the identification, description and evaluation of the effects of new information technologies on the abuse and exploitation of children, taking into account relevant data collected for the comprehensive study on cybercrime. In that resolution, the Council also requested UNODC to design and carry out an assessment of the needs of States for training in the investigation of offences against children committed by using new information and communications technologies and, on the basis of the results of that survey, to design a training and technical assistance programme to assist Member States in combating such offences more effectively. In 2011 and in the first half of 2012, UNODC commenced a literature review for the study on the effects of new information technologies on the abuse and exploitation of children, and it undertook preparatory steps for the assessment of training needs.

B. Maritime piracy

15. Piracy off the Horn of Africa and in the Indian Ocean has been steadily increasing over the past few years. The lack of rule of law in Somalia, which has been without an effective Government since 1991, has provoked the surge in hijackings and piracy in the area. In his report prepared pursuant to Security Council resolution 1846 (2008), the Secretary-General observed that “in the long term, the issue of piracy and armed robbery at sea off the coast of Somalia will be resolved only through an integrated approach that addresses the conflict, lack of governance and absence of sustainable livelihoods on land in Somalia” (S/2009/146, para. 59).

16. Over time, pirates operating off the coast of Somalia have become much more organized and aggressive. By using mother ships, pirates are able to travel hundreds of kilometres off the coast to hijack large vessels. Pirate groups are often linked to other forms of organized crime; they maintain relatively sophisticated networks for collecting intelligence and have been reported to be engaging in the corruption of local officials in Somalia. Funds from ransoms are widely distributed within local communities, and piracy is becoming a major source of income in some areas. A parallel illicit economy has been created, leading to growing dependency of coastal communities on funds obtained from piracy. There is evidence that the rise of maritime piracy contributes to further destabilizing the country by providing resources to groups involved in the conflict in the country.

17. According to data obtained by the International Maritime Organization (IMO), in 2011 there were 286 attacks against ships in the waters off the coast of Somalia, of which 31 were successful. The presence of naval forces close to the coast of Somalia to contain and disrupt the activities of pirate groups has proved effective for the Gulf of Aden, but has led to a geographical expansion of pirate operations into the Red Sea, the Somali Basin and further off the coast of Somalia into the Indian Ocean. Pirates now operate in the high seas at distances of up to 1,750 nautical miles from the coast of Somalia, covering a geographical area of roughly 2.8 million square miles.¹

18. In its resolution 1816 (2008), the Security Council addressed the issue of piracy off the Somali coast and decided that for a period of six months from the date of the resolution, States cooperating with the Transitional Federal Government of Somalia in the fight against piracy and armed robbery at sea off the coast of Somalia were permitted to use all necessary means to repress acts of piracy and armed robbery at sea in the territorial waters of Somalia, as permitted by international law on the high seas. In its resolution 1851 (2008), the Council encouraged States to implement the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the United Nations Convention against Transnational Organized Crime.

19. Both the Security Council, in its resolutions 1851 (2008), 1897 (2009), 1976 (2011) and 2015 (2011), and the General Assembly, in its resolutions 64/179, 65/232 and 66/181 (and to a lesser extent in its resolutions 65/37 A and 66/231), have acknowledged the role of UNODC in providing technical assistance to States in the fight against piracy, specifically in the areas of developing the necessary legal frameworks and judicial and law enforcement capacities to enable the prosecution and incarceration of suspected and convicted pirates, allowing for transfers of convicted pirates to serve sentences in Somalia, improving prison capacity and conducting training for prison staff in Somalia.

20. In its resolution 21/2, entitled “Countering maritime piracy, especially off the coast of Somalia and in the Gulf of Guinea”, the Commission on Crime Prevention and Criminal Justice requested UNODC to continue providing technical assistance to affected Member States, upon request, in order to enhance their capacity in countering maritime piracy and armed robbery at sea.

21. The Contact Group on Piracy off the Coast of Somalia was established following the adoption of Security Council resolution 1851 (2008) to facilitate discussion and coordination of action among States and organizations to suppress piracy off the coast of Somalia. The membership of the Contact Group has continued to expand. Representatives from more than 60 countries and international organizations participate in its plenary sessions and working groups. UNODC is an active participant in the Contact Group and continues to serve as secretariat to its Working Group 2, on legal issues, and cooperates closely with Working Group 5, on the financial aspects of Somali piracy. UNODC also manages the Contact Group’s Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia. The Office’s role as manager is now being reviewed, in order to concentrate efforts on further development and the delivery of tangible results under

¹ Report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region (S/2012/50).

the counter-piracy programme, the funding of which, together with contributions from the Trust Fund, currently totals approximately \$40 million.

22. Since the inception of the counter-piracy programme in May 2009, UNODC has continued to provide substantial support to countries in East Africa in their efforts to bring suspected pirates captured off the coast of Somalia to justice. UNODC has worked with a number of countries in the region, principally Kenya and Seychelles, to provide support to their entire criminal justice system, including police, courts, prosecutors and prisons, in order to ensure that the trials of suspected pirates are effective, efficient and fair. The same support is being extended to Mauritius, which is expected to accept the first transfer of suspected pirates in the near future. UNODC is also commencing a support programme in the United Republic of Tanzania.

23. UNODC estimates that, to date, 1,167 Somali men are being or have been prosecuted for piracy in 22 countries throughout the world. Of those, it is estimated that 582 have been convicted, 23 have been acquitted and 562 are awaiting trial. In Kenya, 164 persons are being or have been prosecuted for piracy; 67 have been convicted (of which 10 have finished serving their sentences), 17 have been acquitted and the remaining 80 are awaiting trial. In Seychelles, 118 persons are being or have been prosecuted for piracy; 64 have been convicted and the trials of the remaining 54 are under way.

24. In 2011, the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia recommended that the coordinated international response to stop piracy be further strengthened. That approach is consistent with that of the UNODC counter-piracy programme, which remains ready to support the implementation of the report's recommendations, as directed by Member States. In particular, UNODC is providing assistance to the States in the region in reviewing and updating their counter-piracy legislation; supporting prosecutors through training and office improvements; developing court facilities; facilitating the attendance of witnesses at trial; substantially improving prison conditions and reducing overcrowding; and improving police practices and evidence-handling.

25. Since early 2010, UNODC has worked in Somalia on improving prison conditions, standards and management, providing training to prosecutors and supporting the work of the Law Reform Commission, a joint initiative of the three Somali authorities. Furthermore, UNODC started its implementation of the piracy prisoner transfer programme, pursuant to Security Council resolution 2015 (2011), by providing support for the transfer of convicted pirates back to Somalia to serve their sentences in their own country, where they are in a familiar culture and can be near to their families. UNODC is working, in particular with the authorities in Somaliland and Puntland, to ensure that suitable long-term imprisonment facilities are available. The transfer programme proposes initiatives to ensure the improvement of prison conditions, including through construction and monitoring of new prisons and mentoring of prison staff.

26. Through its counter-piracy programme, UNODC also began implementing an advocacy programme, with a view to taking a preventive approach to countering piracy, by reaching out to Somali youth and dissuading them from becoming involved in piracy and by liaising with key stakeholders, including community leaders, politicians and religious leaders. The programme was designed to deliver

anti-piracy messages through the mainstream media and at community gatherings and to liaise with other agencies to establish sustainable alternative livelihoods for people in Puntland.

27. In carrying out its work, UNODC maintains close ties with the navies conducting law enforcement operations, the donor community and the criminal justice authorities in the States participating in the fight against piracy. UNODC continues to work in coordination with IMO, the International Criminal Police Organization (INTERPOL), the United Nations Political Office for Somalia and other stakeholders to ensure an efficient and coordinated response to piracy.

28. In its resolution 1818 (2011), the Security Council welcomed a United Nations assessment mission to examine the threat of piracy and armed robbery at sea in the Gulf of Guinea. The mission was led by UNODC and the Department of Political Affairs of the Secretariat in November 2011. As follow-up, UNODC will address piracy and maritime security in the context of a national integrated programme for Benin.

29. According to UNODC data, in 2011, pirates received about \$170 million in ransoms for hijacked vessels and crews. That was an increase of 50 per cent compared with 2010, when ransoms paid to pirates amounted to over \$110 million. The average payment in 2011 amounted to about \$5 million, though as much as \$10 million was paid for the release of a single tanker. Ransoms are paid in United States dollars and, to date, none have been recovered by law enforcement investigators. In that regard, UNODC has engaged in initiatives to address illicit financial flows linked to piracy, with a view to establishing efficient mechanisms and procedures for identifying, freezing and seizing such flows and for ensuring the prosecution of the responsible financiers and sponsors. UNODC organized two international conferences on illicit financial flows linked to piracy in 2011. Together with the World Bank and INTERPOL, UNODC is working on a report on such flows that is to be published by the end of 2012.

C. Environmental crime

30. Criminal activities affecting the environment, once an emerging threat, have evolved to become a serious form of transnational organized crime with links to other crimes associated with high levels of violence and corruption.

31. Results of research conducted by UNODC on various forms of environmental crime in South-East Asia suggest that the criminal networks responsible for wildlife and timber trafficking, as well as the smuggling of e-waste and ozone-depleting substances, use sophisticated techniques and operate between continents in order to connect cheap supply sources to wealthy markets. For example, African wildlife is increasingly being smuggled into wealthy markets in South-East Asia. The research results also indicate that significant differences exist among the various forms of environmental crime, especially in terms of the actors involved, routes, patterns and *modi operandi*. The evidence shows that different interventions are required to curb crimes as diverse as illegal logging, illicit trade in wildlife, trafficking in timber, overfishing, and e-waste smuggling.

32. In South-East Asia, UNODC continues to encourage Governments to increase their efforts to protect natural resources and convict perpetrators of environmental crime. UNODC participated in several events involving Governments, international organizations and non-governmental organizations in order to lobby for improved legal frameworks, adequate penalties and increased international cooperation to respond to environmental crime.

33. In the Greater Mekong area, UNODC has used the border liaison mechanism to improve inter-agency law enforcement cooperation along and across international checkpoints. In Cambodia, Thailand and Viet Nam, discussions on the improvement of border security have increasingly focused on environmental crime, in addition to trafficking in drugs and in persons. Through surveys, national coordination mechanisms, improved reporting efforts, procurement of equipment and various training activities, UNODC is assisting border officers in responding to environmental crime, with the support of the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the United Nations Environment Programme.

34. UNODC strengthened its cooperation with the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries in order to support the Governments of Cambodia, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam in adopting effective measures to prevent and prosecute the illegal trade in timber. Based on existing tools to assess the capacity of States to respond to various forms of transnational organized crime, UNODC led an assessment to identify strengths and weaknesses of the criminal justice response to the illegal timber trade in the Greater Mekong area.

35. In 2011, the Economic and Social Council adopted resolution 2011/36 on crime prevention and criminal justice responses to trafficking in endangered species of wild fauna and flora. In the resolution, the Council requested UNODC to, inter alia, continue to provide technical assistance to States, upon request, particularly as regards the prevention, investigation and prosecution of trafficking in endangered species of wild fauna and flora, within its mandate and in cooperation with Member States, relevant international organizations and the private sector. Pursuant to that resolution, a series of transnational organized crime threat assessments, addressing the scope and prevalence of trafficking in wild fauna and flora, is currently being prepared, in consultation with Member States, partners and international organizations. The scope and dangers of trafficking in endangered species of wild fauna and flora were examined in *Organized Crime and Instability in Central Africa: A Threat Assessment*, which was published in October 2011 (available from www.unodc.org/documents/data-and-analysis/Studies/Central_Africa_Report_2011_web.pdf).

36. In partnership with the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, INTERPOL, the World Customs Organization and the World Bank, which are members of the International Consortium on Combating Wildlife Crime, UNODC developed the *Wildlife and Forest Crime Analytic Toolkit* (available from www.unodc.org/documents/Wildlife/Toolkit.pdf), which is now available for pilot studies. The toolkit aids Governments in identifying challenges and strengthening their criminal justice responses to wildlife and forest crime.

37. Since 2010, UNODC, in partnership with the International Consortium on Combating Wildlife Crime, has worked towards developing and delivering multi-agency, issue-specific seminars and workshops on building capacities and raising awareness regarding activities targeting wildlife crime.

38. To date, UNODC has implemented several joint activities in the framework of the International Consortium. A meeting of the Ivory and Rhinoceros Enforcement Task Force was held in Nairobi in May 2011, where law enforcement officers exchanged information and developed strategies for combating the illegal trade in ivory. The meeting was attended by 20 high-level law enforcement officers representing wildlife, customs and national park authorities, the police, and law enforcement agencies from 12 countries. Participants also considered intelligence supplied by Australia, Canada and the United States of America.

39. A workshop on establishing a network of controlled delivery units was held in Shanghai, China, from 7 to 9 December 2011. The workshop brought together 50 participants from 18 countries, including police, customs and judicial officials from Africa and Asia, as well as experts from organizations that are members of the International Consortium on Combating Wildlife Crime. The workshop covered law enforcement in China and efforts to counter forest and wildlife crime, the identification of global routes used for smuggling wildlife and timber, methods used to detect the smuggling of wildlife and timber, controlled delivery techniques (including their financial aspects) and prosecution. The workshop included group activities aimed at building a network of practitioners. Follow-up will include monitoring and reporting on participants' future collaboration and controlled delivery operations.

40. A seminar for senior-level police and customs officers of States that still have tigers living in the wild was organized under the auspices of the International Consortium in Bangkok on 13 and 14 February 2012. The seminar was attended by representatives from Bangladesh, Bhutan, Cambodia, China, India, Indonesia, the Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, the Russian Federation, Thailand and Viet Nam and representatives from all five International Consortium partners. The seminar was one of the initial collaborative efforts of the Consortium to provide to law enforcement officers technical assistance related to trafficking in wildlife.

41. A workshop on electronic permit systems was organized by the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, with the support of China and the European Commission. The workshop, held in Guangzhou, China, from 9 to 11 May 2012, provided participants with an opportunity to express their needs, share knowledge, establish partnerships and develop funding strategies.

D. Cultural property

1. Promotion of the use of the United Nations Convention against Transnational Organized Crime and the Protocols thereto in the fight against trafficking in cultural property

42. In its resolution 5/7, entitled “Combating transnational organized crime against cultural property”, the Conference requested the Open-ended Interim Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation to examine the relevant recommendations and outcomes of the expert group on protection against trafficking in cultural property established in the framework of the Commission on Crime Prevention and Criminal Justice, and to make recommendations for consideration by the Conference, in order to promote the practical application of the Convention, by considering the extent and adequacy of existing norms as well as other normative developments, with due attention to aspects of criminalization, international cooperation, including mutual legal assistance, and extradition with regard to the matter. The joint discussion of the two working groups will take place on 18 October 2012.

43. In that resolution, the Conference also requested the Secretariat to prepare an analytical report for the above-mentioned working groups on the application of the Convention by States parties with respect to criminal offences against cultural property and urged States parties to provide the Secretariat with information for that report. That information is contained in documents CTOC/COP/WG.3/4 and CTOC/COP/WG.2/3.

44. In its resolution 2010/19, entitled “Crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking”, the Economic and Social Council encouraged UNODC to continue to contribute to the cooperative network established among the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Council of Museums, INTERPOL, the International Institute for the Unification of Private Law (Unidroit) and the World Customs Organization in the areas of trafficking in cultural property and its recovery and return. At meetings of that network, representatives of UNODC led the discussion on the Organized Crime Convention and promoted the use of the Convention as an effective international instrument in the fight against trafficking in cultural property. They also provided information on activities of the Office related to protection against trafficking in cultural property.

2. Development of specific guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property

45. Pursuant to Economic and Social Council resolution 2010/19, UNODC convened an informal expert group meeting in Vienna from 21 to 23 November 2011 to develop specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property. Twenty experts from 16 countries, as well as representatives of UNESCO, Unidroit, INTERPOL, the carabinieri (national military police) of Italy and the UNODC Country Office in the Islamic Republic of Iran participated in the meeting.

46. The informal expert group considered a first draft of the specific guidelines for crime prevention and criminal justice responses with respect to trafficking in

cultural property that had been prepared by UNODC. Participants shared relevant practical examples, good practices and comments, which contributed significantly to the development of the guidelines. A second draft of the guidelines, containing relevant information provided during that meeting, was prepared in December 2011.

47. The draft guidelines were discussed during the meeting of the expert group on protection against trafficking in cultural property held in Vienna from 27 to 29 June 2012. The report on that meeting is contained in document UNODC/CCPCJ/EG.1/2012/4.

48. The expert group on protection against trafficking in cultural property noted the importance of developing draft guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property. It was 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.

49. The draft guidelines include references to databases, manuals and training programmes and activities undertaken by competent international organizations. UNODC will use the guidelines as a technical assistance tool to deliver training to practitioners at the national, regional and international levels, in particular in the area of criminal justice responses to trafficking in cultural property. The future guidelines are to be a technical assistance tool for use by States as a basis for policy and legislative development and reference material for the training of relevant personnel.

50. The draft guidelines are organized into three parts — prevention, criminal justice responses and international cooperation — and are to assist law enforcement officers, prosecutors, magistrates, public and private institutions such as museums and auction houses, and other competent authorities in providing more effective protection against trafficking in cultural property. The active participation of representatives of UNESCO, Unidroit and INTERPOL in the meeting of the expert group ensured that the guidelines complemented existing technical tools to address trafficking in cultural property and avoided duplication and overlapping.

E. Trafficking in organs

51. The number of successful organ transplants is constantly rising and, consequently, so is the demand for human organs. That rise has led to a critical global imbalance in the supply of and demand for human organs, in particular kidneys, and has created enormous challenges for national health-care systems and patients. Furthermore, trafficking in organs has become a profitable illegal activity. Usually the trafficked organs have been removed from living persons from developing countries and the organ recipients are from developed countries.

52. In addition to the steadily growing demand, underlying causes for the rise in the illegal organ trade include poverty and lack of adequate legislation on and regulation of the health-care sector. Victims of trafficking in organs are often recruited from vulnerable groups (for instance, persons who live in extreme poverty) and traffickers are often part of organized criminal groups that lure people abroad under false promises and then convince or force them to sell their organs.

Recipients of the organs usually pay much more than the donors received, and the difference is used to pay brokers, surgeons and hospital directors, who have all been reported to be involved in such organized criminal networks.

53. While the actual scope of the problem of organ trafficking is unknown, the World Health Organization estimates that organ trafficking accounts for 5-10 per cent of the kidney transplants that are performed annually throughout the world.

54. To date, no internationally agreed definition of “trafficking in organs” exists and the phenomenon is poorly understood. It encompasses different but related activities, such as trafficking in persons for the removal of organs, illegal trade in organs and transplant tourism. “Trafficking in persons for the removal of organs” refers to situations involving “trafficking in persons” as defined in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The crime of “trafficking in persons for the removal of organs” can be distinguished from other forms of trafficking in persons in terms of the professions involved: doctors and other health-care practitioners, ambulance drivers and mortuary workers may be involved in trafficking in persons for the removal of organs. “Illegal trade in organs” refers to situations where organs, tissues and cells are trafficked for financial or economic gain, and “transplant tourism” is when persons travel to another country to buy an organ to be transplanted.

55. The response of the criminal justice and health sectors and the legislative framework with regard to trafficking in organs needs to be strengthened, based on research and guidance tools, in order to advise criminal justice practitioners on investigating and prosecuting the crime. UNODC is developing, in consultation with relevant experts, a tool to assess the incidence of trafficking in persons for the removal of organs at the national and regional levels.

F. Fraudulent medicines

56. Fraudulent medicines are increasingly becoming a cause for concern in countries throughout the world, particularly in developing countries. Such medicines present a public health risk. They may have severe health consequences, such as increased suffering of patients owing to a lack of active ingredients in medication, severe or fatal complications resulting from the presence of toxins in the medication. And they may lead to loss of confidence in the national health-care system.

57. Although fraudulent medicines can be found all around the world, developing countries and middle-income countries in Africa and parts of Asia appear to be most affected by them. To a lesser (but still significant) extent, fraudulent medicines are sold in Canada, the United States and countries in Europe and Latin America. The full extent of the phenomenon, however, remains unclear, as there are no complete and comprehensive statistics available, except in isolated cases. According to a UNODC study, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* (available from www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf), the value of the trade in fraudulent medicines between South-East Asia and Africa is estimated at \$1.6 billion.

58. Owing to a lack of adequate resources and infrastructure, the public health-care systems of most developing and middle-income countries are unable to provide the medicines, including the most basic ones, required by the population. That creates an alternative market for medicines, which is exploited by the clandestine industry of fraudulent medicines. Often, lack of an adequate national control mechanism for pharmaceutical products allows fraudulent medicines to enter a country.

59. Fraudulent medicines have become an important source of income for organized criminal groups, with extremely high returns and low risks of detection and prosecution. A combination of weak regulatory systems, poor quality control mechanisms and inadequate national legislation make less developed countries a prime target for criminal conduct involving fraudulent medicines. Trafficking in fraudulent medicines has become a major threat to States that lack the capacity, knowledge and resources to prevent and respond to it.

60. In April 2011, the Commission on Crime Prevention and Criminal Justice adopted resolution 20/6, on countering fraudulent medicines, in particular their trafficking, in which it encouraged UNODC to provide technical assistance to Member States in the regions most affected by trafficking in fraudulent medicines. Pursuant to that resolution, UNODC, together with international organizations and civil society, is developing an integrated approach to assisting Member States in the areas of research and assessment, legal and judicial assistance, and local and regional operational law enforcement and border control, as well as forensic and technical assistance and awareness-raising.

61. UNODC, together with the Pôle régional de lutte contre la criminalité organisée en Europe du Sud-Est, an initiative of the Ministry of Foreign Affairs of France, organized a seminar on the fight against fraudulent medicine in the Balkans, which was held in Belgrade in November 2011. The aim of the seminar was to discuss the situation with regard to trafficking in fraudulent medicines in the Balkans and to propose joint initiatives for preventing and detecting the crime. Participants included officials from Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro and Serbia, as well as officials from relevant international and regional organizations, including the European Union, the World Customs Organization, the World Health Organization, the Council of Europe, INTERPOL, the European Police Office (Europol), Eurojust and the Law Enforcement Center.

IV. Research and trend analysis

62. As part of its integrated regional programme approach, UNODC continued to develop assessments of the threat of transnational organized crime at the regional level. The regional assessments examine a range of activities involving transnational organized crime, including piracy and trafficking in drugs, persons, arms, natural resources and wildlife. By providing detailed information on the mechanics, volumes and values of specific trafficking flows, the assessments facilitate the formulation of policy and provide a basis for the prioritization of activities. They also reveal the considerable social, economic and political impact of transnational organized crime and the need to go beyond a regional approach and to broaden the discussion to include stakeholders from outside the field of criminal justice.

63. Threat assessments became one of the priorities of the new United Nations system task force on transnational organized crime and drug trafficking, set up in March 2011 with the aim of integrating responses to transnational organized crime into United Nations peacekeeping, peacebuilding, security and development activities. The UNODC regional threat assessments will be considered by the task force and the findings should be built into policy analysis and programme development throughout the United Nations system, including at the regional and national levels.

64. In *Organized Crime and Instability in Central Africa: A Threat Assessment*, the manner in which transnational organized crime, including activities such as trafficking in minerals and other forms of contraband, contributes to perpetuating instability was highlighted. That instability makes it difficult to provide the necessary criminal justice response to crimes such as murder, rape and trafficking in children.

V. Recommendations

65. The Conference of the Parties may wish to do the following:

(a) Review and discuss experience gained in the application of the Organized Crime Convention, including international cooperation using the Convention as a legal basis, with regard to preventing and combating emerging forms of crime, with a view to identifying good practices in that respect;

(b) Urge States parties to further strengthen their legal frameworks to prevent and combat emerging forms of crime in a manner consistent with international instruments, such as the Organized Crime Convention, and consider establishing as criminal offences the acts covered by those instruments;

(c) Encourage States parties to support UNODC, together with relevant organizations and partners, in delivering technical assistance and sustainable capacity-building to countries, upon request, to prevent and combat cybercrime;

(d) Urge States parties to participate in and support national, regional and international efforts to prosecute crimes of piracy;

(e) Request States and the secretariat to consider appropriate follow-up measures to implement the recommendations of the expert group on protection against trafficking in cultural property, in particular those recommendations directly related to the use and application of the Organized Crime Convention;

(f) Encourage States parties to take action against environmental crime and trafficking in endangered species of wild fauna and flora by supporting UNODC in its multi-agency approach to delivering technical assistance and capacity-building, by adopting necessary legislation, by strengthening international, regional and bilateral cooperation and by considering making “trafficking in an endangered species of wild fauna or flora” a serious crime.