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**Latin American and Caribbean Regional Preparatory  
Meeting for the Eleventh United Nations Congress on  
Crime Prevention and Criminal Justice**  
San José, 19-21 April 2004

**Seminar on Implementation of the United Nations  
Convention against Transnational Organized Crime and  
the Protocols Thereto and on Promotion of Ratification of  
the United Nations Convention against Corruption**  
San José, 22-23 April 2004

## **Report of the Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice**

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## **I. Introduction**

1. In its resolution 56/119 of 19 December 2001, on the role, function, periodicity and duration of the United Nations congresses on the prevention of crime and the treatment of offenders, the General Assembly decided that each congress should be preceded by regional preparatory meetings; and also decided to call future congresses United Nations congresses on crime prevention and criminal justice.
2. In its resolution 57/171 of 18 December 2002, the General Assembly requested the Secretary-General to facilitate the organization of regional preparatory meetings for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice; and also requested him to make available the necessary resources for the participation of the least developed countries in the regional preparatory meetings for the Eleventh Congress and at the Congress itself, in accordance with past practice.
3. In its resolution 58/138 of 22 December 2003, the General Assembly encouraged Governments to undertake preparations for the Eleventh Congress at an early stage by all appropriate means, including, where appropriate, the establishment of national preparatory committees, with a view to contributing to a focused and productive discussion on the topics and to participating actively in the organization of and follow-up to the workshops; reiterated its invitation to Member States to be represented at the Eleventh Congress at the highest possible level, for example, by heads of State or Government or government ministers and attorneys general, to make statements on the theme and topics of the Congress and to participate in thematic interactive round tables; and urged the regional preparatory meetings to examine the substantive items on the agenda and the workshop topics of the Eleventh Congress and to make action-oriented recommendations to serve as a basis for the draft recommendations and conclusions for consideration by the Eleventh Congress and the Commission on Crime Prevention and Criminal Justice at its fourteenth session.
4. In both its resolutions 57/171 and 58/138, the General Assembly encouraged the relevant specialized agencies, United Nations programmes and intergovernmental and non-governmental organizations, as well as other professional organizations, to cooperate with the United Nations Office on Drugs and Crime in the preparations for the Eleventh Congress.

## **II. Conclusions and recommendations**

5. The Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice agreed on the conclusions and recommendations presented below.
6. The Meeting recommended that each State make every effort to include in the composition of its delegation to the Eleventh Congress representatives of the executive power, the legislative power and the judicial penal system and the attorney-general's office, as appropriate, in order to allow the full involvement of its relevant authorities in the discussion at the Congress, which would ensure continuity and coordinated follow-up action for the implementation of the

recommendations of the Congress. The Meeting recalled that the General Assembly, in its resolution 58/138, had decided that the high-level segment of the Eleventh Congress should be held during the last three days of the Congress to allow heads of State or Government or government ministers to focus on the main substantive agenda items of the Congress.

## **A. Substantive items**

### **1. Effective measures to combat transnational organized crime**

7. The Meeting noted that Latin America and the Caribbean had, despite progress in reforming criminal justice systems, seen a resurgence of criminal activity in all its forms. The Meeting recommended that strong measures be taken against transnational organized crime and that all States that had not yet done so become parties to the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) and its three Protocols (Assembly resolutions 55/25, annexes II and III, and 55/255, annex) at the earliest opportunity. It also recommended that States parties draft, enact and implement national legislation, in line with the provisions of the Organized Crime Convention and its Protocols, making use of the legislative guides for the implementation of those legal instruments, as soon as the guides became available.

8. The Meeting agreed that effective and universal implementation of the Organized Crime Convention and its Protocols would help to ensure the gradual dismantlement of safe havens used by organized criminal groups. It also recognized, however, that the root causes of organized crime had to be addressed. While acknowledging that the ratification of those legal instruments and the incorporation of their provisions into national law would improve the judicial response to organized crime, the Meeting also noted that serious problems faced in the region, such as the inequitable distribution of income and the declining economic infrastructure, were directly linked to the resurgence of criminality worldwide, as the gap between low-income countries and high-income countries was increasing rather than decreasing. Similarly, the problems of marginalization, expressed in terms of loss of values, were mentioned as a further factor contributing to the rise in crime. For those reasons, the Meeting recommended that those factors should be borne in mind when attempting to reduce crime rates; thus, to improve the situation, States should adopt not only criminal sanctions but also broader economic and social measures and Bretton Woods institutions should provide assistance to low-income countries, as well as facilitate access to international markets for products from the region.

9. The Meeting welcomed the entry into force of the Organized Crime Convention and two of its three Protocols and recommended that all States in Latin America and the Caribbean participate actively in the forthcoming Conference of the Parties to the United Nations Convention against Transnational Organized Crime.

10. It was noted that there was a need to facilitate the universal implementation of the Organized Crime Convention to the extent possible, taking into account the negative effects of organized crime on society in general and on sustainable development. Accordingly, the Meeting recommended that donor communities and financial institutions contribute increased funding to enable the United Nations

Office on Drugs and Crime and the Latin American Institute for the Prevention of Crime and the Treatment of Offenders to expand their programmes for providing technical assistance and advisory services to developing countries and countries with economies in transition, in order to enable them to become parties to and/or implement the Organized Crime Convention and its Protocols; in that way legal and financial constraints hampering many developing countries in their efforts to comply with international instruments could be overcome. The Meeting also recommended that such funding be utilized for the provision of specific assistance and advice to States, at their request, including the provision of training for magistrates, judges, prosecutors, customs officials and law enforcement personnel involved in the fight against organized crime, in particular by continuing and intensifying the organization of meetings, seminars and workshops at the global, regional, subregional and national levels.

11. Recognizing that effective technical assistance would only be possible where technical assistance needs were clearly identified and prioritized, the Meeting recommended that Latin American and Caribbean States requiring technical assistance identify their needs and priorities in combating serious crime, including organized crime, as well as related problems that were being faced in Central America, which was witnessing an increase in the involvement of gangs in organized crime. It also recommended that sufficient resources be allocated to national agencies responsible for the prevention, investigation, prosecution and adjudication of transnational organized crime so that they would have the necessary means to implement effectively the provisions of the Organized Crime Convention and the Protocols, including, in particular, the provisions on special investigative techniques and witness and victim protection.

12. The Meeting recognized that international cooperation was crucial to the fight against transnational organized crime. It noted the difficulties faced in Latin America and the Caribbean related to the fact that the countries in that region operated under both common-law and continental-law systems and, in practice, the different prosecutorial systems made effective interregional and international cooperation difficult. The Meeting recommended that, in order to facilitate the exchange of reliable information on organized crime, the capacity of Member States to collect and analyse such information be strengthened and that a more effective system, similar to that established by the European Union, be developed for sharing at the regional and international levels of information on significant trends regarding organized criminal groups and their activities. The Meeting thus recommended that each of the States in the region identify its central authority responsible for receiving requests for international cooperation, to be transmitted to the competent authorities; that the central authorities meet frequently and strive to keep the same personnel in order to ensure continuity; and that, to the extent possible, central authority personnel be highly qualified and multilingual, with considerable knowledge of, and continuously trained in, the different legal systems, especially in the areas of extradition and mutual legal assistance.

13. The Meeting noted the fragility of many of the penal institutions in Latin America and the Caribbean and the problems associated with the increasing sense of insecurity. Accordingly, the Meeting recommended that, in promoting criminal justice reform, a comprehensive analysis of the links between organized crime and institutional fragility in the region be undertaken with a view to developing fair,

independent and effective judicial systems, thus re-establishing credibility and respect for the rule of law, taking into account the Basic Principles on the Independence of the Judiciary.<sup>1</sup>

14. The Meeting recommended that the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annexes II and III), be continued and that national legislation for implementing those Protocols be consistent with their provisions and, in particular, with the definitions contained in them. Accordingly, the Meeting recommended that specific protection and assistance be provided for persons applying for refugee status and that the principle of non-refoulement be respected, in accordance with article 14 of the Trafficking in Persons Protocol and article 19 of the Migrants Protocol. Furthermore, the Meeting recommended that thorough analysis of individual cases involving victims of trafficking precede the repatriation of those persons to their countries of origin in order to determine which of those persons required international protection.

15. The Meeting noted that the trafficking in firearms and explosives in the region had contributed to an increase in the activities of organized criminal groups and in the number of violent deaths. The Meeting recommended that all States that had not yet ratified or acceded to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/255, annex), do so in order to facilitate its entry into force as soon as possible. The Meeting also recommended that States comply with the provisions of the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.<sup>2</sup>

16. The Meeting noted the role of the Inter-American Drug Abuse Control Commission of the Organization of American States in collecting information on organized crime.

17. The Meeting recommended that, for the purpose of extradition, States in the region should harmonize their legislation to the extent possible, in particular in connection with the provisions on criminalization set out in the Organized Crime Convention and its Protocols, so that the principle of dual criminality would not constitute an obstacle to developing more effective cooperative arrangements. At the same time, the Meeting recommended that the principle of dual criminality not be a requirement in cases of mutual legal assistance.

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<sup>1</sup> *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. IV, sect. D.2, annex.

<sup>2</sup> United Nations, *Treaty Series*, vol. 2029, No. 35005.

18. Acknowledging that effective crime prevention strategies were dependent on the establishment and promotion of crime prevention programmes by various means, including public awareness campaigns, the Meeting recommended that States and regional bodies engage in efforts to increase public awareness of the dangers posed by organized crime, including through media campaigns and the mobilization of groups in civil society. It also recommended that particular attention be paid to mechanisms for preventing the growth of organized crime, including mechanisms for promoting the appropriate responses to organized crime by local government authorities.

19. The Meeting recommended that all States ratify and implement the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,<sup>3</sup> and the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage,<sup>4</sup> both adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization, and the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects and adopt effective legislative measures to prohibit the import, export and transfer of illegally acquired cultural properties, as well as to promote the return of such illegally acquired property to the country of origin, drawing, as appropriate, on the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,<sup>5</sup> adopted in 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. In that connection, the importance of intangibles in cultural heritage that should be protected was stressed.

20. The Meeting acknowledged that recent advances in technology had enabled organized criminal groups to speed up their operations, while judicial systems continued to encounter bureaucratic difficulties in their operation. The Meeting recognized the need for attention to be given to increasing the knowledge of legal, regulatory and jurisdictional measures against cybercrime, as well as to promoting more effective and coordinated international action. It therefore recommended the drafting of a convention on the subject, building on the Council of Europe Convention on Cybercrime.<sup>6</sup>

21. The Meeting recognized that kidnapping was one of the most serious and profitable forms of organized crime, often committed with the objective of funding organized crime and terrorist activities. It strongly recommended that urgent measures be devised to combat it and that attention be given to the creation of practical mechanisms for countering kidnapping.

22. Taking into account the measures adopted by States in the region to combat the laundering of money derived from drug trafficking and in confiscating assets acquired through that activity, the Meeting recommended that those measures be extended to combat the laundering of money derived from any other criminal activity.

<sup>3</sup> Ibid., vol. 823, No. 11806.

<sup>4</sup> Ibid., vol. 1037, No. 15511.

<sup>5</sup> *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1, annex.

<sup>6</sup> Council of Europe, *European Treaty Series*, No. 185.

**2. International cooperation against terrorism and links between terrorism and other criminal activities in the context of the work of the United Nations Office on Drugs and Crime**

23. The Meeting unequivocally condemned terrorism in all its forms and recommended that Latin American and Caribbean States ratify or accede to the 12 international instruments against terrorism, in particular, the International Convention for the Suppression of the Financing of Terrorism (General Assembly resolution 54/109, annex) and the 2002 Inter-American Convention against Terrorism (A/56/1002-S/2002/745, annex).

24. The Meeting also recommended that all States comply fully with the relevant resolutions of the General Assembly and Security Council, in particular Council resolution 1373 (2001) of 28 September 2001.

25. The Meeting recommended that, in implementing the international instruments for countering terrorism and in order to ensure that counter-terrorism measures were firmly grounded in international law, international humanitarian law and the principles of the Charter of the United Nations, States coordinate their action under the leadership of the United Nations. It also recommended that national legislation be reviewed and updated, as appropriate, in order to enable States to comply with their international commitments and that counter-terrorism measures not disregard the protection of fundamental human rights, including the rights of asylum and the international protection of refugees, enshrined in the relevant United Nations instruments, standards and norms and in regional instruments. The Meeting further recommended the early conclusion of the negotiations on the draft comprehensive convention on international terrorism.

26. The Meeting also recommended that States intensify inter-agency coordination in their efforts to combat terrorism at the national, regional and international levels. In that respect, all channels for sharing intelligence and other information should be utilized fully, in order to prevent terrorist acts from occurring, as well as to prosecute and adjudicate those responsible for such acts.

27. The Meeting recommended that, in order to avoid obstacles to effective cooperation, mechanisms for rendering mutual legal assistance be improved, in particular in relation to accessing the records of suspicious transactions in banking and financial institutions and expediting formal cooperative arrangements. Extradition proceedings should also be reviewed.

28. The Meeting recommended that international cooperation and technical assistance be strengthened further and that efforts be made to improve coordination between the various international organizations engaged in counter-terrorism, in order to avoid duplication of effort and enhance the effectiveness of joint initiatives.

29. The Meeting recommended that States in Latin America and the Caribbean continue to make better use of existing regional mechanisms, such as the Inter-American Committee against Terrorism, established pursuant to the Commitment of Mar del Plata. Recalling that at least two thirds of the countries in the region had experienced different forms of state terrorism under military or illegitimate regimes, the Meeting also strongly recommended the condemnation of such terrorism, in conformity with regional instruments on the subject.

30. The Meeting recommended that, in view of the links between terrorism, organized crime and drug trafficking in many places, States ensure that national agencies for countering terrorism and agencies for fighting crime cooperate more effectively with each other, in order, inter alia, to enhance the exchange of intelligence and other information and to curb the financing of terrorism through money-laundering.

31. The Meeting recommended that States confiscate proceeds derived from criminal activities related to terrorism and consider using such confiscated proceeds in their efforts to fight terrorism. At the same time, consideration should also be given to using such confiscated proceeds to create a special fund dedicated to providing financial compensation to victims of terrorism and their families.

32. The Meeting also recommended that States recognize the importance of prevention strategies and policies, including public awareness campaigns, that involved the population at large in the prevention and control of terrorism.

### **३. Corruption: threats and trends in the twenty-first century**

33. The Meeting acknowledged the importance of the newly adopted United Nations Convention against Corruption (General Assembly resolution 58/4, annex) as an effective tool for international cooperation in the fight against the scourge of corruption, as the Convention included in its provisions new elements and legal institutions that had not been covered in other instruments. Recalling that the United Nations Convention against Corruption had been negotiated in a spirit of solidarity and shared responsibility, the Meeting underlined the relevance of the Inter-American Convention against Corruption, which had entered into force in 1997 and for which implementation measures were already in place, and recommended the establishment of effective mechanisms for coordinating the efforts to implement the United Nations Convention against Corruption with efforts to implement other related instruments on the subject. The Meeting also expressed the hope that the United Nations Convention against Corruption would enter into force as soon as possible.

34. Recognizing that effective and universal implementation of the United Nations Convention against Corruption would ensure that States in the region tackled the threat to political stability and sustainable development posed by corruption, the Meeting recommended that all States that had not yet done so sign and ratify the Convention at the earliest opportunity.

35. In order to promote the early entry into force of the United Nations Convention against Corruption, the Meeting recommended that donor communities and financial institutions increase their contributions to enable the United Nations Office on Drugs and Crime to expand its programme for providing technical assistance and advisory services to States, upon request, in order to enable them to become parties to the Convention and fully implement its provisions, as well as to strengthen their national institutions for good governance and respect for the rule of law.

36. To assist States in the implementation process, the Meeting recommended the preparation of a legislative guide for the implementation of the United Nations Convention against Corruption, similar to those being prepared for the Organized

Crime Convention and its Protocols, and the organization of regional and subregional seminars, as well as national workshops as soon as possible.

37. The Meeting noted that, in order for States in the region to give the fight against corruption the highest priority, it was necessary for them to set up independent and adequately staffed and funded anti-corruption bodies to oversee and coordinate the implementation of anti-corruption policies and to increase and disseminate the knowledge available about the prevention of corruption, inter alia, through public awareness campaigns and the design of anti-corruption modules in the national education systems. Emphasizing the value of such awareness-raising campaigns, the Meeting recommended that States create mechanisms for receiving complaints or for denouncing corrupt practices and/or corrupt officials that would also guarantee protection of the identification of the denouncer, as well as the confidentiality of the information provided.

38. Recognizing the importance of States having adequate codes of conduct for different institutions and the fact that, in order to curb corruption, a change of culture in the public and private sectors was necessary, the Meeting recommended that States set up, if necessary through the provision of technical assistance, programmes for training government officials and financial managers in the public and private sectors in, inter alia, the use of effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods; capacity-building in the development and planning of strategic anti-corruption policies; the management of public finances, including public procurement and relations with the private sector; preventing and combating the transfer of proceeds of corruption and recovering such proceeds; detecting the transfer of such proceeds and freezing such proceeds; surveillance of the movement of such proceeds; appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds to their countries of origin; methods used in protecting victims and witnesses cooperating with judicial authorities; and providing training for central authorities in the preparation of requests for mutual legal assistance and extradition.

39. In order to promote integrity, honesty, responsibility and accountability among public officials, the Meeting recommended that measures be taken to prevent corruption in the public and private sectors, including the judiciary and prosecution services, such as the establishment of improved hiring and promotion procedures, the provision of adequate remuneration, the provision of tenure and, above all, ensuring the independence of the judiciary. The Meeting also recommended that, while guaranteeing protection of the rights of the accused, particular attention be paid to finding ways to deal with delaying tactics, which could be tantamount to obstruction of justice, bearing in mind statutory limitations.

40. The Meeting was of the opinion that, in societies where corrupt practices were commonplace and seen to be part of the fabric of society, pervading all institutional infrastructures, there was the danger that such practices would not only continue, but would also expand. The Meeting therefore recommended that all States that had not yet done so criminalize money-laundering, bribery, embezzlement and illicit enrichment, as well as other conduct covered in the provisions of the United Nations Convention against Corruption.

41. It was noted that the assets involved in corruption were often transferred to financial safe havens, adding to the decline of the already fragile economic infrastructure of many countries in the region. The Meeting therefore recommended that all States adopt the measures necessary to enable proceeds of corruption to be recovered, by direct means and by international cooperation. The Meeting also recommended that the technical assistance and advisory services programme of the United Nations Office on Drugs and Crime be extended, through increased financial contributions from the donor communities and financial institutions, so that technical assistance could be provided to States in need, at their request, to help them in building their capacity to respond to requests for asset recovery.

42. It was noted that bank secrecy was often an impediment to efforts to investigate allegations of corruption and to provide assistance to States investigating such allegations. The Meeting therefore recommended that all States that had not yet done so make it possible to lift bank secrecy in relevant cases so that financial or commercial records could be made available or seized. The Meeting also recommended that States make it possible for the offender to be required to demonstrate the lawful origin of alleged proceeds of crime or property liable to confiscation. It further recommended that existing bilateral agreements between financial intelligence units be extended in order to share relevant information.

43. The Meeting recommended that, where corruption was a relevant factor in cases of public tender, legal proceedings annul or rescind awarded contracts, withdraw concessions or other similar instruments or take other effective remedial action, having due respect for the rights of third parties obtained in good faith and avoiding clauses of confidentiality.

44. The Meeting noted that corruption was no longer a local matter but a transnational phenomenon that affected all societies and economies. It therefore recommended that international cooperation be strengthened further. In that connection, it also recommended that States that had not yet done so adopt legislation to enable international cooperation, in the form of mutual assistance, transfer of proceedings, law enforcement cooperation, joint investigations and special investigative techniques, to be provided to other States in their investigation of cases involving corruption. It further recommended that States establish and provide adequate funding for central authorities responsible for mutual legal assistance in order to allow for more extensive use of direct channels of communication.

45. Taking into account the negative effects of corruption in society at large and sustainable development in particular, the Meeting recommended that seminars and workshops be organized to exchange experience in combating corruption, with a view to improving strategies for preventive action, and to further strengthen international cooperation.

#### **4. Economic and financial crimes: challenges to sustainable development**

46. The Meeting noted that the Latin American and Caribbean region had seen a significant increase in all forms of crime in recent years, in particular economic and financial crime involving offences related to credit card fraud, identity theft and counterfeiting, through, inter alia, the use of the Internet, as well as consumer fraud, and that such crime often victimized the poorest. The Meeting recommended that

States take all necessary action against money-laundering and the manipulation of stock markets, including the abuse of privileged legal information and capital flight. Such action should include the criminalization of money-laundering in their national legislation, as well as the incorporation into law of the principles contained in related international norms and standards, such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,<sup>7</sup> the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

47. In order to facilitate the implementation of international instruments addressing money-laundering, the Meeting also recommended that specific efforts be made to provide countries in the region with the necessary assistance, including the establishment and development of appropriate institutions, including financial intelligence units, as well as specialized training for the personnel of those units and for judges, prosecutors and investigators.

48. Recognizing the transnational nature of economic and financial crime, the Meeting recommended that States in the region concentrate their efforts on ensuring that they had in place mechanisms for providing effective international cooperation in the investigation, prosecution and adjudication of economic and financial crimes.

49. In considering the pivotal role of banks and financial institutions in the prevention and detection of economic and financial crime, the Meeting recommended that States ensure: (a) that the banks and financial institutions within their jurisdictions had in place effective compliance mechanisms for avoiding situations where banking secrecy could become an obstacle to the investigation of cases involving such crime and to international cooperation and for preventing and detecting abuse of the financial system; (b) that businesses exercised due diligence in their dealings with customers and financial transactions; and (c) that reporting mechanisms were established to facilitate fulfilment of the obligation to report suspicious transactions to national authorities.

50. It was noted that, because economic and financial crime introduced critical distortions into free-market economies and severely undercut legitimate investors, they represented a threat to sustainable economic growth and to the effective functioning or consolidation of democracy, accountability and the rule of law. Stressing that the Global Compact Initiative of the Secretary-General could provide a neutral platform that could help all stakeholders in society to generate practical solutions to corruption and the problems associated with economic and financial crime, the Meeting recommended that measures be developed to enhance corporate social responsibility along the lines of the principles on which the Global Compact Initiative was based. It also proposed that a study be carried out to develop reliable indicators of economic and financial crime and a system for comparing their incidence and harm with other types of criminal behaviour, in order to establish the resource levels needed to address that serious problem.

51. Aware of the growing impact of globalization and the complexity of the phenomenon of illicit economic and financial transactions, the Meeting recommended that the Eleventh Congress consider the possibility of initiating negotiations on a draft United Nations convention against economic and financial

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<sup>7</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.

crime, on the basis of a comprehensive study to be conducted by a group of recognized experts.

52. Given the problems associated with the investigation and prosecution of economic and financial crime, the Meeting recommended that States in the region greatly extend the period of their statutes of limitations and provide for the suspension, but not the interruption, of those statutes in order to invalidate impunity and ensure the delivery of justice, even in cases where the alleged offender had evaded the administration of justice.

53. Concerned at the growing use of the Internet, the Meeting recommended that crimes committed through information systems or the Internet also receive special attention. It also recommended that States increase the effectiveness of cooperation among financial and banking authorities, insurance agencies and stock market authorities. It further recommended promoting the harmonization of regulations concerning banking blueprints and transfers in order to prevent funds of illicit origin from being transferred to the financial system through banking havens.

54. The Meeting recommended that, where feasible, commercial codes and regulations, financial laws and administrative controls be reformed to increase the transparency of operations.

55. The Meeting also recommended that technical cooperation in that area be strengthened further to ensure that States were equipped with the legislative, financial and technical expertise necessary to combat all forms of financial and economic crime; moreover, police units, prosecutors and judges should receive extensive training to enable them to deal with such complex offences.

## **5. Making standards work: fifty years of standard-setting in crime prevention and criminal justice**

56. The Meeting recognized the value of the United Nations standards and norms in crime prevention and criminal justice and the wide range of issues that they covered, including the procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary (Economic and Social Council resolution 1989/60, annex), the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (Council resolution 1989/61, annex), the Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolutions 45/117, annex, and 53/112, annex I) and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (Assembly resolution 45/110, annex).

57. The Meeting noted that during the preceding 20 years, following periods of armed conflict or authoritarian rule, many States in Latin America and the Caribbean, faced with the issue of justice for serious violations of human rights, including torture, extrajudicial executions and disappearances, had passed amnesty laws designed to promote and ensure a stable peace. The Meeting recommended that States in the region, being firmly committed to the protection of human rights, seek to bring their domestic legislation into conformity with the American Convention on Human Rights, taking also into account the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65, annex).

58. The Meeting noted that, in some countries in Latin America and the Caribbean, gangs were increasingly becoming involved in organized crime. The Meeting also noted that, in some countries in the region, a high percentage of the prison population consisted of gang members who were, in many cases, able to continue their illegal activities from the detention facilities. The Meeting therefore recommended that professional staff in correctional facilities receive training in sound management principles and that such training include making staff aware of possible deficiencies in security that could occur in the management of correctional programmes. The Meeting also recommended that the curricula of such training programmes cover the United Nations standards and norms in crime prevention, criminal justice, the treatment of offenders and human rights and how to put their principles into practice.

59. The Meeting was concerned about the insufficient awareness of United Nations standards and norms in crime prevention and criminal justice throughout the region. The Meeting recommended that efforts be undertaken to ensure wider dissemination of the United Nations standards and norms and that States in the region incorporate elements of the standards and norms into educational programmes, including university curricula.

60. The Meeting also recommended that States use and apply United Nations standards and norms in crime prevention and criminal justice in their national programmes for criminal justice reform and in their crime prevention efforts and that, in doing so, the standards and norms also be incorporated in training programmes for law enforcement officials, including prison officials, prosecutors, the judiciary and other relevant professional groups.

61. In order to facilitate the practical use and application of the United Nations standards and norms in crime prevention and criminal justice, the Meeting recommended that the United Nations Office on Drugs and Crime provide requesting States with technical assistance and/or advisory services for their programmes for criminal justice reform, including assistance in amending their criminal justice legislation and codes of criminal procedure.

62. Noting that strategies in crime prevention should be comprehensive, addressing the root causes and factors related to crime and delinquency, the Meeting recommended that penal justice go hand-in-hand with appropriate social, economic, health and educational policies. The Meeting also recommended the participation of not only central authorities and local authorities, but also members of civil society in crime prevention.

63. The Meeting recommended that States pay particular attention to juvenile justice and to measures to ensure the treatment of children in conflict with the law, in particular those deprived of their liberty, in conformity with the applicable United Nations standards and norms and taking into account their gender, social circumstances and developmental needs. The Meeting also recommended that the Eleventh Congress explore:

(a) The possibility of developing an action plan for juvenile justice that would set targets for reducing the number of children arrested, detained or imprisoned;

(b) The feasibility of the action plan aimed at reducing the number of such children by 25 per cent within 5 years and by 50 per cent within 10 years;

(c) The possibility of the action plan focusing on the collection and analysis of national data on children deprived of their liberty, with a view to promoting the prevention of juvenile delinquency and the use of alternatives to imprisonment and improving the conditions of children deprived of their liberty.

64. The Meeting recommended that the Eleventh Congress give particular attention to the need to protect victims of crime, in particular victims of organized crime. States should be committed to the creation and implementation of a legal framework and financial assistance plan or fund for providing support to victims, including mental and physical care and treatment, pursuant to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex).

65. The Meeting noted the tendency in some States to adopt repressive legislation carrying very severe penalties, even for minor infractions, rather than adopting preventive measures and alternatives to incarceration, which had consequently led to prison overcrowding. Prisoners remanded without trial still constituted the majority of the prison population in many countries and inmates were often housed in inhumane conditions, which facilitated the spread of infectious diseases and created “universities of crime” rather than correctional institutions. The Meeting recommended that States provide for prompt judicial proceedings, thus shortening the period of pre-trial detention, and adopt more alternative measures to imprisonment as punishment for the convicted perpetrators of non-violent criminal acts. The Meeting further recommended that appropriate consideration be given by the Eleventh Congress to the adoption of the following draft resolution, sponsored by Costa Rica, Cuba and Mexico:

### **For human dignity: the Charter of Fundamental Rights of Prisoners**

*The Eleventh United Nations Congress on Crime Prevention and Criminal Justice,*

*Recalling* the United Nations Millennium Declaration, adopted by the General Assembly in its resolution 55/2 of 18 September 2000, in which heads of State and Government recognized that they had a collective responsibility to uphold the principles of human dignity, equality and equity at the global level,

*Recognizing* the pioneering role of the Standard Minimum Rules for the Treatment of Prisoners,<sup>8</sup> adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, recognized as the first instrument for the humane, fair and efficient management of detention and imprisonment,

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<sup>8</sup> *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.

*Bearing in mind* the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111 of 14 December 1990, in which the Assembly recognized the usefulness of drafting a declaration of the human rights of prisoners,

*Deeply concerned* about the serious problems confronting many States as a result of prison overcrowding,

*Having regard* for the regional efforts in the promotion of basic rights of prisoners, as considered by the Pan-African Conference on Penal and Prison Reform in Africa, held in Ouagadougou from 18 to 20 September 2002, and the Latin American Conference on Penal Reform and Alternatives to Imprisonment, held in San José from 6 to 8 November 2002, and pursued by the African Union and the Organization of American States, as well as the Asian Conference on Prison Reform and Alternatives to Imprisonment, held in Dhaka from 12 to 14 December 2002,

*Mindful* of Economic and Social Council resolution 1997/36 of 21 July 1997, on international cooperation for the improvement of prison conditions, in which the Council took note of the Kampala Declaration on Prison Conditions in Africa, contained in the annex to that resolution,

*Mindful also* of Economic and Social Council resolution 1998/23 of 28 July 1988, on international cooperation aimed at the reduction of prison overcrowding and the promotion of alternative sentencing, in which the Council took note of the Kadoma Declaration on Community Service, contained in annex I to that resolution,

*Convinced* that formulating fundamental rights of prisoners will further the objective of upholding the principles of human dignity by the international community,

*Adopts* the Charter of Fundamental Rights of Prisoners, contained in the annex to the present resolution, with a view to ensuring its implementation by Member States, intergovernmental and non-governmental organizations and other entities and individuals concerned in all places of detention and imprisonment.

## **Annex**

### **Charter of Fundamental Rights of Prisoners**

#### *I. Right to inherent dignity*

Confinement of prisoners,<sup>9</sup> including poor and racially discriminated persons, should be managed in a humane manner and with respect for the inherent dignity of the human person.<sup>10</sup> There shall be no discrimination on the

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<sup>9</sup> The term “prisoners” applies to persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced. It also applies to detained or imprisoned juvenile delinquents and offenders.

<sup>10</sup> See the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/172, annex, principle 1) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (Assembly resolution 45/113,

grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>11</sup> It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which a prisoner belongs, whenever local conditions so require.<sup>12</sup> Measures applied under the law and designed solely to protect the rights and special status of women (especially pregnant women and nursing mothers), children and juveniles, aged, sick and handicapped persons, shall not be deemed to be discriminatory. A prisoner must be treated by the prison system strictly in accordance with the conditions imposed in the imprisonment sentence without further aggravating the suffering inherent in such a situation.<sup>13</sup>

## *II. Right to separation, classification and treatment*

A prisoner has the right to be placed in separate institutions or parts of institutions, taking into account his or her sex, age, criminal record, the legal reason for their detention and the necessities of treatment.<sup>14</sup> A person detained for delinquency or criminal investigation shall be presumed to be innocent until he or she is proved guilty.<sup>15</sup> He or she shall not be obliged to be a part of the treatment and rehabilitation programme in the juvenile justice administration or prison system.<sup>16</sup>

## *III. Right to humane accommodation*

A prisoner has the right to be accommodated in places that meet all requirements of health, with due regard to climatic conditions, appropriate cubic content of air, minimum floor space, lighting, heating and ventilation.<sup>17</sup>

## *IV. Right to decent food*

A prisoner has the right to food of nutritional value adequate to health and strength, of wholesome quality and well prepared and served at usual hours.

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annex, rule 12).

<sup>11</sup> See the Basic Principles for the Treatment of Prisoners (Assembly resolution 45/111, annex, principle 2).

<sup>12</sup> See the Basic Principles for the Treatment of Prisoners (principle 3).

<sup>13</sup> See the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 5).

<sup>14</sup> See the International Covenant on Civil and Political Rights (Assembly resolution 2200 A (XXI), annex, art. 10, para. 2 (b)) and the Standard Minimum Rules for the Treatment of Prisoners (rules 8 and 68).

<sup>15</sup> See the Universal Declaration of Human Rights (Assembly resolution 217 A (III), art. 11, para. 1), the International Covenant on Civil and Political Rights (art. 14, para. 2), the Standard Minimum Rules for the Treatment of Prisoners (rule 84, para. 2), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 36) and the Standard Minimum Rules for the Treatment of Prisoners (rule 89).

<sup>16</sup> See the International Covenant on Civil and Political Rights (art. 10, para. 2 (a)), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (Assembly resolution 40/33, annex, rule 13, paras. 3 and 4, and rule 26) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (rules 17 and 29).

<sup>17</sup> See the Standard Minimum Rules for the Treatment of Prisoners (rules 9, 10 and 19).

Safe and clean drinking water shall be available to every prisoner whenever he or she needs it.<sup>18</sup>

*V. Right to health and medical care*

A prisoner has the right to clean accommodation with proper living conditions, adequate diet, enough clothing and medical care, both preventive and curative, available in the country without discrimination on the grounds of his or her legal situation.<sup>19</sup>

*VI. Right to education, culture and sport*

A prisoner has the right to take part in educational, cultural and sports programmes. The participation of prisoners in such programmes is fundamental to the development of the individual and the community, has a humanizing effect on prison life and plays an essential role in the reintegration of prisoners into society.<sup>20</sup>

*VII. Right to legal consultation, a prompt and fair trial and equitable sentencing, including non-custodial sanctions*

A prisoner has the right to communicate and consult with his or her legal counsel and to resort to the services of an interpreter to exercise that right effectively.<sup>21</sup> He or she has the right to be heard promptly by a judicial or other authority with a power to review as appropriate the continuance of detention, including release pending trial.<sup>22</sup> Decisions on the imposition of non-custodial measures on the offender shall be subject to review by a judicial or other competent independent authority, upon application by the offender. In the interest of reducing the use of imprisonment and rationalizing criminal justice policy through greater community involvement and promoting the offender's sense of responsibility towards society, he or she, in cases provided by law establishing criteria in respect of both the nature and gravity of the offence and his or her personality and background, the purposes of sentencing and the rights of victims, is eligible to be sentenced to a non-custodial sanction.<sup>23</sup>

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<sup>18</sup> See the Standard Minimum Rules for the Treatment of Prisoners (rule 20).

<sup>19</sup> See the Universal Declaration of Human Rights (art. 25) and the Basic Principles for the Treatment of Prisoners (principle 9).

<sup>20</sup> See the United Nations Standard Minimum Rules for the Treatment of Prisoners (rule 77) and the Basic Principles for the Treatment of Prisoners (principle 6).

<sup>21</sup> See the International Covenant on Civil and Political Rights (art. 14, para. 3), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principles 11, para. 1, and 17, 18 and 32) and the Standard Minimum Rules for the Treatment of Prisoners (rule 93).

<sup>22</sup> See the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 11, para. 3).

<sup>23</sup> See the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (Assembly resolution 45/110, annex, rules 1.4, 1.5 and 2.3).

### *VIII. Right to independent inspections or supervision*

A prisoner has the right to receive independent inspections or supervision appointed by and responsible to a competent authority distinct from the authority in charge of the administration of the place of detention or imprisonment and to communicate freely and in full confidentiality with persons who visit the places of detention or imprisonment, subject to reasonable conditions to ensure security and good order in such places.<sup>24</sup>

### *IX. Right to reintegration*

A prisoner has the right to obtain, within the limits of available resources, reasonable quantities of educational, cultural and informational material, including instructional material on exercising persons' rights, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.<sup>25</sup> A prisoner has the right to undertake a meaningful remunerated employment, which will increase his or her self-respect and facilitate reintegration into society and permit him or her to contribute to his or her own financial support and that of his or her family.<sup>26</sup> Existing barriers should be limited and contact with families, friends and the outside community in general should be encouraged and increased.

## **B. Workshops**

66. It was noted that the three working days allocated to the regional preparatory meeting left it little time to give appropriate attention to the six workshops. Having considered the topics of the six workshops, as highlighted in the discussion guide (A/CONF.203/PM.1), the Meeting stressed their relevance in relation to the substantive items of the Eleventh Congress and their practical importance in examining best practices and developing technical cooperation activities. It recommended that attention be given to the scheduling of the workshops, taking into consideration the other requirements of the Eleventh Congress.

### **Workshop 1. Enhancing International Law Enforcement Cooperation, including Extradition Measures**

67. The Meeting recommended that Workshop 1 review current practices of law enforcement cooperation, both bilateral and regional, with a view to supporting viable legislative reforms that would enhance international cooperation involving law enforcement agencies, including the establishment of networks of liaison officers, joint investigations and initiatives aimed at the detection of transnational crime, as well as cross-border operations. It also recommended that the Workshop examine the operationalization of extradition and mutual legal assistance

<sup>24</sup> See the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 29).

<sup>25</sup> See the International Covenant on Civil and Political Rights (art. 10, para. 2), the Body of Principles for the Treatment of Prisoners (principle 28) and the Standard Minimum Rules for the Treatment of Prisoners (rule 40).

<sup>26</sup> See the Standard Minimum Rules for the Treatment of Prisoners (rule 65) and the Basic Principles for the Treatment of Prisoners (principle 8).

arrangements, drawing on the provisions of existing international legal instruments. The Meeting noted that, as for other forms of international cooperation, the requirement of dual criminality could be an issue, for example, in cases where refusal of assistance could be based on the ground that the act in relation to which the request had been made was not an offence in the territory of the requested State. In that connection, the Meeting recommended that the Workshop devote some time to the examination of best practices in extradition, where the principle of dual criminality was a requisite for the provision of assistance. It also recommended that the Workshop identify measures to be taken or best practices to be followed in finding solutions to the problem of shortening the period of time between making a request for extradition and the execution of that request, taking into account procedural guarantees, as well as in exploring simplified procedures for extradition, utilizing a standard format for formulating requests that could be transmitted via the Internet.

### **Workshop 2. Enhancing Criminal Justice Reform, including Restorative Justice**

68. The Meeting recommended that Workshop 2 conduct an extensive, comprehensive review of current criminal justice reform worldwide, to include the examination of new legislation and practices in drafting criminal, substantive and procedural codes, as well as the consequent structural and material adjustments required. It also recommended that the relationships between law reforms and the underlying legal culture be given due attention, especially in countries where indigenous people relied on traditional and customary justice, based on community participation, restitution, compensation, mediation, arbitration and other forms of conflict resolution used to achieve the peaceful settlement of disputes. The Workshop should also examine ways to expand access to justice, to increase confidence in the legal system and to establish the credibility of institutions of the legal system. The Meeting recommended that restorative forms of justice be reviewed, taking into account the concerns of the victim, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, as well as training programmes designed for criminal justice personnel implementing restorative justice programmes.

### **Workshop 3. Strategies and Best Practices for Crime Prevention, in particular in relation to Urban Crime and Youth at Risk**

69. The Meeting recommended that Workshop 3 be used as an opportunity to share information and experiences concerning the most promising approaches used in crime prevention strategies to reduce urban violence and increase urban security. The Meeting was informed about initiatives currently being taken in a number of countries in Latin America and the Caribbean, including two projects being carried out in Argentina and Peru. The Meeting recommended that proper attention be given to primary and secondary prevention, including broad education programmes, aimed at protecting youth at risk of becoming involved in criminal activities. It also recommended that the Workshop examine ways and means of planning and implementing broad prevention policies, in particular in those parts of the world experiencing a resurgence in crime. At the same time, the Workshop should examine how best to put into practice relevant United Nations standards and norms applicable to youth in conflict with the law, in order to avoid a situation in which deprivation of liberty would be the predominant social response to youth crime. It

further recommended that the Workshop examine ways and means of fostering community participation in crime prevention, in particular, ways to increase the confidence and trust of the community in law enforcement, in order to promote cooperation among members of civil society and the police.

#### **Workshop 4. Measures to Combat Terrorism, with reference to the Relevant International Conventions and Protocols**

70. The Meeting recommended that Workshop 4 explore ways and means of strengthening the capacity of the judiciary, prosecution and the police to counter terrorist organizations and activities, as well as examining various types of technical assistance that could be provided by the United Nations Office on Drugs and Crime to ensure the full application of existing international instruments against terrorism, including the provision of legislative guides and specialized training for criminal justice officials. The Meeting also recommended that, in adopting and implementing national laws against terrorism, the principle of due process of law be maintained, thus striking an appropriate balance with the need to prevent and control that most serious form of crime. It further recommended that the Workshop examine the most effective ways to ensure the expeditious exchange of criminal intelligence and other information at the national and international levels in order to enhance cooperation in the investigation and prosecution of terrorist crimes.

#### **Workshop 5. Measures to Combat Economic Crime, including Money-Laundering**

71. The Meeting recommended that, based on its recommendation contained in paragraph 51 above, the Workshop give appropriate consideration to examining the need for a United Nations instrument against economic and financial crime, proposing the main elements to be covered, as well as parameters for improved international cooperation. It also stressed the importance of drawing on best practices and experiences, based on current national, regional and international initiatives to improve international cooperation in efforts to counter money-laundering, reviewing the results achieved and suggesting more effective measures.

#### **Workshop 6. Measures to Combat Computer-related Crime**

72. The Meeting recommended that Workshop 6 explore best practices in developing and establishing comprehensive training programmes for criminal justice officials, which would include in their curricula issues such as cyberterrorism, credit card fraud, cyberstalking, identity theft, pornography, paedophilia, computer viruses, hackers, hoaxes and Internet privacy. The target group of such training programmes would be law enforcement officers specializing in monitoring cyberspace, with a view to increasing their effectiveness in detecting, investigating and prosecuting computer-related crime. The Meeting also recommended that the Workshop examine current experience and existing national legal frameworks and arrangements for cooperation between States, as well as between States and Internet providers, to combat computer-related crime. In addition, special attention should be given to the monitoring of Internet cafés. The Meeting further recommended that the Workshop examine the feasibility of establishing a global Internet task force that could improve international cooperation in efforts to fight cybercrime, for example, by providing early warning

of new forms of cybercrime and by developing measures to counter cyber-threats to security infrastructure.

### **III. Attendance and organization of work**

#### **A. Date and venue of the Meeting**

73. The Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice was held in San José from 19 to 21 April 2004.

#### **B. Attendance**

74. The following member States of the Economic Commission for Latin America and the Caribbean were represented at the Meeting: Argentina, Bahamas, Brazil, Bolivia, Canada, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, France, Guatemala, Honduras, Italy, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, Spain, United States of America, Uruguay and Venezuela.

75. Aruba, an associate member of the Economic Commission for Latin America and the Caribbean, was represented at the Meeting.

76. The following Member State was represented by an observer: Thailand.

77. The following United Nations entities were represented by observers: United Nations Office on Drugs and Crime, Office of the United Nations High Commissioner for Human Rights, Office of the United Nations High Commissioner for Refugees and United Nations Development Programme.

78. The following institutes of the United Nations Crime Prevention and Criminal Justice Programme network were also represented by observers: United Nations Interregional Crime and Justice Research Institute, Latin American Institute for the Prevention of Crime and the Treatment of Offenders and International Scientific and Professional Advisory Council.

79. The International Labour Organization, a specialized agency of the United Nations system, was represented by an observer.

80. The following intergovernmental organizations were represented by observers: European Union, International Organization for Migration, Organization of American States and Pan American Health Organization.

81. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: Defence for Children International, International Prisoners Aid Association, Open Society Institute, Penal Reform International and Prison Fellowship International.

82. The following other organization was represented by an observer: Inter-American Institute of Human Rights.

83. A list of participants is contained in annex I.

### **C. Opening of the Meeting**

84. The Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice was opened on 19 April 2004 by the Executive Secretary of the Eleventh Congress, who welcomed the participants, recalled the main purpose of the Meeting and expressed his gratitude to the Government of Costa Rica and the Latin American Institute for the Prevention of Crime and the Treatment of Offenders for their hospitality and support.

85. The Minister of Justice of Costa Rica addressed the Meeting. She called for the utmost attention to be given to tackling transnational organized crime, terrorism and corruption. She noted that terrorism was a global problem that undermined the political and democratic stability of States. She stated that terrorists used fear to achieve their totalitarian objectives, striking with total disregard at the weakest and most vulnerable victims. She underlined the importance of more effective international cooperation against transnational crime, stating that technological advances had provided new opportunities for criminal groups. The Minister also emphasized the value of international laws and the international protection of human rights, welcoming the United Nations Convention against Transnational Organized Crime and its Protocols and the United Nations Convention against Corruption, which would further advance collaborative work in the fight against those problems, which was the shared responsibility of all countries. She emphasized the important role of the rule of law in combating crime.

86. The Vice-Minister of Security of Costa Rica also addressed the Meeting, noting the relevance of having a more profound understanding of transnational organized crime, which would lead to an improved ability to tackle the problem, both internationally and nationally, thus providing for better security and safety in communities.

87. The Director of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders recalled the involvement of his Institute in the preparatory activities for the past five United Nations congresses on crime prevention and criminal justice. He noted that, in most countries in Latin America and the Caribbean, the problem of growing crime rates could be linked to inequitable distribution of wealth; moreover, the situation with regard to distribution of wealth in the region was deteriorating in comparison with other regions of the world. He stressed the important role of the United Nations in providing multilateral solutions to transnational crime and the value of the United Nations standards and norms in crime prevention and criminal justice. He expressed the hope that the Governments of all States in Latin America and the Caribbean would continue to pool their efforts in combating the various forms of crime.

### **D. Election of officers**

88. At its 1st and 2nd meetings, the Meeting elected, by acclamation, the following officers:

<i>Chairman:</i>	Patricia Vega Herrera (Costa Rica)
<i>Vice-Chairmen:</i>	Hugo Sivina (Peru) Jon Isaacs (Bahamas) Alejo Fernández Chaves (Uruguay)
<i>Rapporteur:</i>	Carlos Rodríguez Bocanegra (Colombia)

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

89. At its 1st meeting, on 19 April 2004, the Meeting adopted its provisional agenda (A/CONF.203/RPM.2/L.1), which had been finalized in accordance with General Assembly resolution 58/138. The agenda read as follows:

1. Opening of the Latin American and Caribbean Regional Preparatory Meeting for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice.
2. Election of officers.
3. Adoption of the agenda and organization of work.
4. Consideration of the substantive items on the agenda of the Eleventh Congress:
  - (a) Effective measures to combat transnational organized crime;
  - (b) International cooperation against terrorism and links between terrorism and other criminal activities in the context of the work of the United Nations Office on Drugs and Crime;
  - (c) Corruption: threats and trends in the twenty-first century;
  - (d) Economic and financial crimes: challenges to sustainable development;
  - (e) Making standards work: fifty years of standard-setting in crime prevention and criminal justice.
5. Consideration of the topics to be considered by workshops within the framework of the Eleventh Congress:
  - (a) Enhancing international law enforcement cooperation, including extradition measures;
  - (b) Enhancing criminal justice reform, including restorative justice;
  - (c) Strategies and best practices for crime prevention, in particular in relation to urban crime and youth at risk;
  - (d) Measures to combat terrorism, with reference to the relevant international conventions and protocols;
  - (e) Measures to combat economic crime, including money-laundering;
  - (f) Measures to combat computer-related crime.

6. Consideration of recommendations to serve as a basis for the draft declaration to be submitted by the Commission on Crime Prevention and Criminal Justice at its thirteenth session to the Eleventh Congress.
7. Adoption of the report of the Regional Preparatory Meeting.

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8. Implementation of the United Nations Convention against Transnational Organized Crime.
  9. Promotion of the ratification of the United Nations Convention against Corruption.
  10. Recommendations for follow-up action.
90. At the same meeting, the Meeting approved its organization of work (A/CONF.203/RPM.2/L.1). The list of documents before the Meeting is contained in annex II.

#### **IV. Proceedings of the Meeting**

91. The substantive items of the agenda, as well as the topics of the workshops, were introduced by the Executive Secretary of the Eleventh Congress.
92. Statements were made by representatives of the following States: Colombia, Venezuela, Brazil, Uruguay, Argentina, Peru, Cuba, Costa Rica, Chile, Bolivia, Panama, Honduras, Guatemala, El Salvador, Ecuador, Canada and Mexico. The representative of Aruba also made a statement.
93. A statement was made by the observer for Thailand.
94. A statement was made by the observer for the Office of the United Nations High Commissioner for Refugees.
95. Statements were also made by the observers for the following institutes of the United Nations Crime Prevention and Criminal Justice Programme Network: Latin American Institute for the Prevention of Crime and the Treatment of Offenders, International Scientific and Professional Advisory Council and United Nations Interregional Crime and Justice Research Institute.
96. Statements were also made by the observers for the following non-governmental organizations: Penal Reform International, Prison Fellowship International, Open Society Institute and International Prisoners Aid Association.

#### **V. Adoption of the report and closure of the Meeting**

97. At its 6th meeting, on 21 April 2004, the Meeting considered and adopted its report (A/CONF.203/RPM.2/L.2 and Add.1 and 3), as orally amended. Participants expressed their sincere appreciation to the Government of Costa Rica and to the Latin American Institute for the Prevention of Crime and the Treatment of Offenders for having made it possible for the Meeting to be held in San José, in an atmosphere of solidarity and cooperation, and for their generous hospitality. Closing statements were made by the Executive Secretary of the Eleventh Congress, the Director of the

Latin American Institute for the Prevention of Crime and the Treatment of Offenders and the Chairman of the Meeting.

## **VI. Seminar on Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto and on Promotion of Ratification of the United Nations Convention against Corruption**

98. The Seminar on Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto and on Promotion of Ratification of the United Nations Convention against Corruption held in San José on 22 and 23 April 2004 began with a presentation by an observer for the United Nations Office on Drugs and Crime, who highlighted the salient points of the Organized Crime Convention and the Protocols thereto and provided an update on the numbers of States that had signed or ratified those instruments. The obligations of the State parties under the Organized Crime Convention and its Protocols were outlined, including the need to promote the ratification of the Firearms Protocol so that, once the threshold of 40 ratifications had been reached, it could enter into force. Information was also provided on the first session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, to be held in Vienna from 28 June to 9 July 2004. The importance of the first session of the Conference was emphasized, as was the need for participants to prepare their contributions for the Conference.

99. The participants in the Seminar were informed that the Organized Crime Convention, the Trafficking in Persons Protocol and the Migrants Protocol had entered into force on 29 September 2003, 25 December 2003 and 28 January 2004, respectively. The United Nations Convention against Corruption, adopted by the General Assembly in its resolution 58/4, had been opened for signature at the High-level Political Conference for the Purpose of Signing the Convention, held in Merida, Mexico, from 9 to 11 December 2003. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime had held its thirteenth session in Vienna from 2 to 6 February 2004 for the purpose of preparing draft rules of procedure for the Conference of the Parties to the Organized Crime Convention, in accordance with Assembly resolution 55/25.

100. In the discussions that followed, participants reported on the ratification and implementation process in their respective countries and on the progress being made with respect to the Protocols to the Organized Crime Convention, as well as on the difficulties that had been experienced in legislative reform with regard to both substantive and procedural criminal law, which were largely attributable to lack of coordination of reform efforts among national legal institutions. In some countries in Latin America and the Caribbean difficulties had been encountered in criminalizing participation in organized criminal groups, as the concepts of conspiracy and criminal association differed in the common-law and continental-law systems. The issue of the liability of legal persons was discussed with great interest; participants welcomed the provision that legal persons held liable would be subjected to effective, proportionate criminal or non-criminal sanctions. While in most States in the region legislation against money-laundering had already been

enacted, some were experiencing difficulties in implementing measures related to the seizure, freezing and/or confiscation of assets or of the illicit proceeds of criminal activities. It was recognized that properly functioning programmes for the protection of witnesses and victims were crucial; however, many countries in the region had been unable to establish such programmes because of a lack of experience and funding. Increased technical assistance and advisory services in that area were urgently required. The possibility of using videoconferencing to enable witnesses to give testimony in safety was also mentioned.

101. The seminar on the promotion of the ratification of the United Nations Convention against Corruption started with a presentation on the main features of the Convention and an update on the status of signatures since the conclusion of the High-level Political Conference. The plans of the Secretariat for the promotion of the entry into force of the new Convention were also outlined.

102. Participants welcomed the adoption and signing of the United Nations Convention against Corruption, reported on current efforts being made in their respective countries towards its ratification and expressed their hope that the Convention would promptly enter into force. It was noted that, as so many States in Latin America and the Caribbean had ratified both the Inter-American Convention against Corruption and the Organized Crime Convention, the process of ratification of the United Nations Convention against Corruption could proceed much faster in the region.

103. There was general agreement that the United Nations Convention against Corruption constituted a strong political and educational instrument that would inspire Governments not only to formulate the relevant national legislation, but also to adopt more effective measures to fight corruption, at both the national level and the international level, in view of the relevance of the provisions related to criminalization and international cooperation. There was also overwhelming support for the provisions of the Convention related to asset recovery and prevention, which were considered extremely important in terms of their practical applications, as evidenced by current measures under way related to putting into practice codes of ethics and guiding principles for public officials. The Basic Principles on the Independence of the Judiciary, the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex) and other relevant United Nations standards and norms were also seen as essential tools in the fight against corruption. Preventive measures in the private sector, such as enhanced accounting and auditing standards and effective, proportionate and dissuasive civil, administrative or criminal penalties, were also commended as useful tools in combating corruption.

104. It was noted that a legislative guide for the implementation of the United Nations Convention against Corruption, similar to those being developed for the Organized Crime Convention and its Protocols, should be prepared and made available as soon as possible, in order to assist States in the ratification process and related legislative reforms. It was recommended that regional and subregional seminars and national workshops be organized to speed up that process and thus strengthen further international cooperation in that area.

## Annex I

### List of participants

#### Member States of the Economic Commission for Latin America and the Caribbean

Argentina	Juan José Arcuri, Pedro David, Juan Carlos Maqueda
Bahamas	Jon Isaacs
Bolivia	Susana Peñaranda, José Luis Merizalde, Jaime Ampuero García
Brazil	Francisco Alvin, Luiza Ribeiro Lopes da Silva, Getulio Bezerra Santos, Marcilândia Araújo, María Claudia Canto Cabral, Patricia Maria Oliveira Lima, Virginia Charpinel Junger Cestari
Canada	Louise Leger, Ted Mackay
Chile	Francisco Javier Leiva Vega, Manuel Eugenio Brito Viñales, Alejandro Salinas Rivera, Catalina Navarro Soffía
Colombia	Julio Aníbal Riaño, Yolanda Sarmiento Amado, María Fernanda Guerrero, Javier Martínez, Jhon Arango, Helia Niño, Jairo Alfonso Rincón, Carlos Rodríguez Bocanegra
Costa Rica	Patricia Vega Herrera, Rogelio Ramos, Ana Elena Chacón Echeverría, María Fulmen Salazar Elizondo, Laura Chinchilla, Francisco Dall'Anesse, Andrea Murillo, Elizabeth Tossi, Marcos Castro, Paul Chaves, Hilel Zomer Befecer, Víctor Murillo, Arnoldo Vrenes, Liliana Rivera, María de los Angeles Chaves, Juan Manuel Herrera, Jennifer Bolaños, Marco Castro, Gustavo Chan Mora
Cuba	Rafael Paulino Pino Bécquer, Carlos Zaragoza, María Romero, Jorge Bodes, Mirta Granda, Yamila Gonzáles
Ecuador	Marcia Hurtado
El Salvador	Orlando Quijano, Leticia González de Ramírez, Daniel de Jesús Martínez Hernández, Margarite Cordova de Delais
France	José Martínez-Colet

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Guatemala	Rafael Enrique González Huinac, José Rodolfo Payés Reyes
Honduras	Edith Urtecho López, Maria Elena Alvarado de Coello, Argentina Wellermann
Italy	Vittorio Benedetto Borghini
Mexico	José Luis Cervantes Martinez, Alfonso Pérez-Daza, Angel de la Guardia, Jaime Flores, Carlos Luiz Massieu
Netherlands	Theo R. G. Van Banning, Ronald Goldberg, Marietta Uitdewilligen
Nicaragua	Nestor Membreño, Carlos Palacios, Erika Bagnarello
Panama	Mercedes de León de Mondizabal, Iana Quadri
Paraguay	Victor Manuel Núñez Rodríguez, Mario Francisco Sandoval, Juan Emilio Oviedo Cabañas
Peru	Hugo Sivina, Ivàn Meini, Luis Alberto Llallico Nuñez, Oswaldo Yupanqui Alvarado, Pablo Sánchez Velarde, Miguel Guzman
Spain	Antonio Rives, Alberto Ruiz, Ramón Alvarez, Jesús Figón
United States of America	Curtis Wilson
Uruguay	Alejo Fernández Chaves, Ricardo Harriague, Jorge Carvalho
Venezuela	Gladys Hernández, Julián José Ochoa, Dayana González

### **Associate members of the Economic Commission for Latin America and the Caribbean**

Aruba	Hyacinto Croes
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### **States Members of the United Nations represented by observers**

Thailand	Prapun Naigowit, Somnuk Siengkong, Opat Varophat, Prathan Chularojmontri, Poravich Makaravatand, Vitaya Suriyawong, Assanee Sangkhanate, Nuntarath Tepdolchai, Somchit Panyapattaponi
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### **United Nations Secretariat**

United Nations Office on Drugs and Crime, Office of the United Nations High Commissioner for Refugees, Office of the United Nations High Commissioner for Human Rights

### **United Nations bodies**

United Nations Development Programme

### **Institutes of the United Nations Crime Prevention and Criminal Justice Programme network**

United Nations Interregional Crime and Justice Research Institute, Latin American Institute for the Prevention of Crime and the Treatment of Offenders and International Scientific and Professional Advisory Council

### **Specialized agencies in the United Nations system**

International Labour Organization

### **Intergovernmental organizations**

European Union, International Organization for Migration, Organization of American States and Pan American Health Organization

### **Non-governmental organizations in special consultative status with the Economic and Social Council**

Defence for Children International, International Prisoners Aid Association, Open Society Institute, Penal Reform International and Prison Fellowship International

### **Other organizations**

Inter-American Institute of Human Rights

## Annex II

### List of documents

A/CONF.203/PM.1	Discussion guide
A/CONF.203/RPM.2/L.1	Provisional agenda and proposed organization of work
A/CONF.203/RPM.2/L.2 and Add.1 and 3	Draft report

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