



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

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Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its second session, held in Vienna from 10 to 21 October 2005

Contents

| <i>Chapter</i> | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| I. Decisions taken by the Conference of the Parties | 1 | 3 |
| 2/1. Implementation of the United Nations Convention against Transnational Organized Crime and programme of work of the Conference of the Parties thereto | | 3 |
| 2/2. Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime | | 5 |
| 2/3. Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime | | 7 |
| 2/4. Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime | | 8 |
| 2/5. Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime | | 10 |
| 2/6. Technical assistance activities | | 11 |
| II. Introduction | 2-3 | 12 |
| III. Organization of the session | 4-29 | 12 |
| A. Opening of the session | 4-16 | 12 |
| B. Election of officers | 17-18 | 17 |



| | | | |
|---------|--|---------|----|
| C. | Adoption of the agenda and organization of work | 19 | 17 |
| D. | Participation | 20-22 | 19 |
| E. | Adoption of the report of the bureau on credentials. | 23-27 | 20 |
| F. | Documentation | 28 | 20 |
| IV. | Review of the implementation of the United Nations Convention against Transnational Organized Crime | 29-52 | 20 |
| V. | Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime | 53-71 | 26 |
| VI. | Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime | 72-84 | 29 |
| VII. | Other matters | 85-114 | 31 |
| A. | Review of the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime | 85-98 | 31 |
| B. | Other issues | 99-103 | 33 |
| C. | Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption | 104-114 | 34 |
| VIII. | Technical assistance activities. | 115-121 | 36 |
| IX. | Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraphs 3-5, of the Convention | 122 | 37 |
| X. | Consideration of notification requirements in accordance with the relevant articles of the Convention (art. 5, para. 3; art. 6, para. 2 (d); art. 13, para. 5; art. 16, para. 5 (a); art. 18, paras. 13 and 14; and art. 31, para. 6) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (art. 8) | 123 | 37 |
| XI. | Provisional agenda for the third session of the Conference of the Parties | 124 | 37 |
| XII. | Adoption of the report of the Conference of the Parties on its second session | 125 | 38 |
| Annexes | | | |
| I. | Draft provisional agenda for the third session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime | | 39 |
| II. | List of participants | | 41 |
| III. | List of documents before the Conference of the Parties at its second session | | 48 |

I. Decisions taken by the Conference of the Parties

1. At its second session, held in Vienna from 10 to 21 October 2005, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime adopted the following decisions:

Decision 2/1

Implementation of the United Nations Convention against Transnational Organized Crime and programme of work of the Conference of the Parties thereto

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

(a) Noted the obligation on each State party under article 32 of the United Nations Convention against Transnational Organized Crime¹ to provide the Conference of the Parties to the Convention with information on its programmes, plans and practices, as well as legislative and administrative measures, related to implementation of the Convention;

(b) Reiterated its decision 1/2, by which it had requested States parties to respond promptly to the questionnaire circulated by the secretariat on the issues identified in that decision and had invited signatories to provide the information requested by the secretariat on those issues;

(c) Noted with concern that the analytical report prepared by the secretariat² was based on the responses received, which constituted only 47 per cent of States parties to the Convention;

(d) Urged those States parties which had not yet done so to submit their responses to the questionnaire to the secretariat not later than 31 March 2006, to include, in the case of non-compliance with provisions of the Convention, the reasons for such non-compliance;

(e) Invited signatories that had not yet done so also to provide the information requested by the secretariat;

(f) Called upon States parties and signatories to review the analytical report prepared by the secretariat for the Conference of the Parties at its second session and to be guided by it in preparing their responses to the questionnaire and their updates, if any (see subparagraph (m) below);

(g) Noted with concern that a number of States parties had not yet complied with their obligations under the Convention;

(h) Urged those States parties which had not yet complied with their obligations under the Convention to take steps to do so as soon as possible and to provide information on those steps to the secretariat for submission to the Conference of the Parties at its third session;

¹ General Assembly resolution 55/25, annex I.

² CTOC/COP/2005/2 and Corr.2.

(i) Encouraged States parties and signatories that encountered difficulties in providing the information requested by the secretariat in accordance with decision 1/2 and the present decision or in complying with their obligations under the Convention to seek the assistance of the secretariat in that regard;

(j) Requested the secretariat to provide such assistance, subject to the availability of extrabudgetary resources;

(k) Urged States parties to review whether they had fulfilled the reporting obligations referred to in the Convention, in particular in article 5, paragraph 3, article 16, paragraph 5, article 18, paragraphs 13 and 14, and article 31, paragraph 6;

(l) Also urged States parties to review whether they had provided to the Secretary-General the information on their national legislation envisaged in articles 6, paragraph 2 (d), and 13, paragraph 5, of the Convention;

(m) Requested States parties that had already responded to the questionnaire circulated by the secretariat in accordance with decision 1/2 and had provided the information or legislation required by the Convention in accordance with the articles mentioned in subparagraphs (k) and (l) above to update such information or legislation as appropriate;

(n) Requested the secretariat to submit to it at its third session an analytical report to include information received pursuant to the present decision, ensuring that it contained sufficient detail to permit the Conference of the Parties to review the implementation of the Convention and of the present decision;

(o) Also requested the secretariat to submit to the Conference of the Parties at its third session new or updated information received pursuant to subparagraphs (k) and (l) above;

(p) Decided that, in order to support its periodical review of implementation of the Convention, information on the following topics should be collected by the secretariat for the Conference of the Parties at its third session, using for that purpose the questionnaire approved by the Conference at its second session:

- (i) Issues of non-compliance with the Convention and the reasons for non-compliance;
- (ii) Money-laundering (article 7), within the scope of the Convention;
- (iii) Adequacy of sanctions (article 11);
- (iv) International cooperation for purposes of confiscation (article 13);
- (v) Disposal of confiscated proceeds of crime (article 14);
- (vi) Extradition (article 16);
- (vii) Transfer of sentenced persons (article 17);
- (viii) Mutual legal assistance (article 18);
- (ix) Investigation of cases of transnational organized crime (articles 19, 20 and 26);
- (x) Protection of witnesses and victims (articles 24 and 25);
- (xi) International law enforcement cooperation (article 27);

(xii) Preventive measures (article 31);

(q) Requested the secretariat to collect information from States parties and signatories to the Convention necessary for the analysis of the topics listed in paragraph (p) above, using for that purpose questionnaires already developed or to be developed in accordance with guidance provided by the Conference of the Parties at its second session;

(r) Encouraged States parties and signatories to include in their delegations to the third session of the Conference experts on the topics listed in the agenda of that session;

(s) Requested States parties to respond promptly to the second questionnaire circulated by the secretariat;

(t) Invited signatories also to provide the information requested by the secretariat;

(u) Requested the secretariat to submit an analytical report, based on the responses to the questionnaires, to the Conference of the Parties at its third session for discussion;

(v) Also requested the secretariat to compile, if practicable, information received in replies to the questionnaires in the format of a chart identifying each individual responding country.

Decision 2/2

Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime

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

(a) Urged States parties that had not complied with the requirements of article 16, in particular, paragraphs 5, 6 and 15, and article 18, paragraph 8, of the United Nations Convention against Transnational Organized Crime,³ to take steps to do so as soon as possible;

(b) With a view to achieving compliance with article 16 of the Convention, requested the secretariat to seek clarification from States parties that had indicated that they were not in compliance with the mandatory obligations set forth in that article, in particular by asking for further information from States parties that had reported that they did not grant extradition on the basis of a treaty or on the basis of domestic law and from States parties that had reported that they refused extradition on the ground that the offence involved fiscal matters, and to report thereon to the Conference of the Parties at its third session;

(c) With a view to achieving compliance with article 18 of the Convention, requested the secretariat to seek clarification from States parties that had reported that they were not in compliance with the mandatory obligation set forth in that

³ General Assembly resolution 55/25, annex I.

article not to decline to render mutual legal assistance on the ground of bank secrecy, and to report thereon to the Conference of the Parties at its third session;

(d) Requested the secretariat to develop and maintain on its secure website a directory of central authorities designated pursuant to article 18, paragraph 13, of the Convention, and, as far as possible, to include in that directory information such as the responsible position/office, contact details, office hours and languages accepted, as well as any other information that the secretariat deemed necessary for effective communication;

(e) Invited States parties to provide to the secretariat the additional information requested in subparagraph (d) above in order to facilitate the development of the directory;

(f) Requested the secretariat, within existing resources, to develop and maintain a directory of authorities dealing with requests for extradition and transfer of sentenced persons in the same format as the directory of authorities designated pursuant to article 18, paragraph 13, of the Convention requested in subparagraph (d) above, and invited States parties to provide information on such authorities to the secretariat;

(g) Decided to establish at its third session an open-ended working group, with interpretation, to hold substantive discussions on practical issues pertaining to extradition, mutual legal assistance and international cooperation for the purpose of confiscation;

(h) Encouraged States parties to include representatives of central authorities and other government experts in their delegations to the next session of the Conference of the Parties with a view to their attending the open-ended working group referred to in paragraph (g) above;

(i) Noting the reporting obligation set forth in article 13, paragraph 5, of the Convention, urged States parties that had not yet furnished copies or descriptions of laws and regulations, or relevant updates, to do so as soon as possible and, where feasible, to do so in electronic form, and requested the secretariat, building upon the information obtained, to present to the Conference of the Parties at its third session an outline of options as to how to make the most effective use of the laws and regulations furnished pursuant to that article, with a view to more effective implementation of the Convention;

(j) Requested the secretariat, building upon the information already obtained in response to the questionnaire on the implementation of the Convention, to inquire of States parties:

(i) Whether they had refused cooperation with respect to confiscation requested pursuant to article 13 of the Convention in particular cases and, if so, to request them to specify the grounds upon which such cooperation had been refused;

(ii) Whether they had had specific cases where confiscated proceeds of crime or property had been returned or shared, as outlined in article 14, paragraphs 2 and 3 (b), of the Convention and, if so, the legal framework within which that had been done.

Decision 2/3**Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime**

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

(a) Reiterated its decision 1/5, by which it had requested States parties to respond promptly to the questionnaire circulated by the secretariat on the issues identified in that decision and had invited signatories to provide the information requested by the secretariat on those issues;

(b) Noted with concern that the analytical report prepared by the secretariat⁴ was based on the responses of only 43 per cent of States parties to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;⁵

(c) Urged those States parties which had not yet done so to submit their responses to the questionnaire to the secretariat not later than 31 March 2006;

(d) Invited signatories that had not yet done so also to provide the information requested by the secretariat;

(e) Called upon States parties and signatories to review the analytical report prepared by the secretariat for the second session of the Conference of the Parties and to be guided by it in preparing their responses;

(f) Noted with concern that a number of States parties had not complied with their obligations under the Protocol;

(g) Urged those States parties which had not complied with their obligations under the Protocol to rectify that situation as soon as possible and to provide information on the measures taken to do so to the secretariat for submission to the Conference of the Parties at its third session;

(h) Called upon States parties and signatories that encountered difficulties in providing the information requested by the secretariat in accordance with decision 1/5 and the present decision or in complying with their obligations under the Protocol to seek the assistance of the secretariat in that regard;

(i) Requested the secretariat to provide such assistance subject to the availability of extrabudgetary resources;

(j) Requested States parties that had already responded to the questionnaire circulated by the secretariat in accordance with decision 1/5 to update such information or legislation as appropriate;

(k) Requested the secretariat to submit an analytical report to include information received pursuant to the present decision, ensuring that it contained

⁴ CTOC/COP/2005/3.

⁵ General Assembly resolution 55/25, annex II.

sufficient detail to permit the Conference of the Parties to review the implementation of the Protocol and the present decision, to the Conference of the Parties at its third session;

(l) Also requested the secretariat to submit to the Conference of the Parties at its third session new or updated information received pursuant to subparagraphs (g) and (j) above;

(m) Decided that the programme of work under this item for its third session would include the following:

(i) Consideration of matters related to assistance to and protection of victims of trafficking in persons (article 6) and status of such victims in receiving States (article 7);

(ii) Consideration of matters related to repatriation of victims of trafficking in persons (article 8);

(iii) Consideration of matters related to border measures (article 11), security and control of documents (article 12) and legitimacy and validity of documents (article 13);

(iv) Consideration of the value of developing, in cooperation with the International Labour Organization, indicators for forced labour;

(n) Requested the secretariat to collect information from States parties and signatories to the Protocol, in the context of the above programme of work, using for that purpose a questionnaire to be developed in accordance with guidance provided by the Conference of the Parties at its second session;

(o) Urged States parties to respond promptly to the questionnaire circulated by the secretariat;

(p) Invited signatories to provide the information requested by the secretariat;

(q) Requested the secretariat to submit an analytical report based on the responses to the questionnaire to the Conference of the Parties at its third session.

Decision 2/4

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

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

(a) Reiterated its decision 1/6, by which it had requested States parties to respond promptly to the questionnaire circulated by the secretariat on the issues identified in that decision and had invited signatories to provide the information requested by the secretariat on those issues;

(b) Noted with concern that the analytical report prepared by the secretariat⁶ was based on the responses of only 45 per cent of States parties to the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime;⁷

(c) Urged those States parties which had not yet done so to submit their responses to the questionnaire to the secretariat not later than 31 March 2006;

(d) Invited signatories that had not yet done so also to provide the information requested by the secretariat;

(e) Called upon States parties and signatories to review the analytical report prepared by the secretariat for the second session of the Conference of the Parties and to be guided by it in preparing their responses;

(f) Noted with concern that a number of States parties had not complied with their obligations under the Protocol;

(g) Urged those States parties which had not complied with their obligations under the Protocol to rectify that situation as soon as possible and to provide information on the measures taken to do so to the secretariat for submission to the Conference of the Parties at its third session;

(h) Called upon States parties and signatories that encountered difficulties in providing the information requested by the secretariat in accordance with decision 1/6 and the present decision or in complying with their obligations under the Protocol to seek the assistance of the secretariat in that regard;

(i) Requested the secretariat to provide such assistance subject to the availability of extrabudgetary resources;

(j) Urged States parties to review whether they had fulfilled the reporting obligations referred to in article 8, paragraph 6, of the Protocol;

(k) Requested States parties that had already responded to the questionnaire circulated by the secretariat in accordance with decision 1/6 to update such information or legislation as appropriate;

(l) Requested the secretariat to submit an analytical report to include information received pursuant to the present decision, ensuring that it contained sufficient detail to permit the Conference of the Parties to review the implementation of the Protocol and the present decision, to the Conference of the Parties at its third session;

(m) Also requested the secretariat to submit to the Conference of the Parties at its third session new or updated information received pursuant to subparagraphs (g) and (k) above;

(n) Decided that the programme of work under this item for its third session will be as follows:

(i) Consideration of matters related to protection and assistance measures for smuggled migrants (article 16);

⁶ CTOC/COP/2005/3.

⁷ General Assembly resolution 55/25, annex III.

- (ii) Consideration of matters related to return of smuggled migrants (article 18);
- (iii) Consideration of matters related to border measures (article 11), security and control of documents (article 12) and legitimacy and validity of documents (article 13);
- (o) Requested the secretariat to collect information from States parties and signatories to the Protocol, in the context of the above programme of work, using for that purpose a questionnaire to be developed in accordance with guidance provided by the Conference of the Parties at its second session;
- (p) Urged States parties to respond promptly to the questionnaire circulated by the secretariat;
- (q) Invited signatories to provide the information requested by the secretariat;
- (r) Requested the secretariat to submit an analytical report based on the responses to the questionnaire to the Conference of the Parties at its third session.

Decision 2/5**Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime**

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

- (a) Decided to carry out the functions assigned to it in article 32 of the United Nations Convention against Transnational Organized Crime⁸ with respect to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the Convention,⁹ by, inter alia, establishing a programme of work that it would review at regular intervals;
- (b) Decided also that, for its third session, the programme of work with respect to the Firearms Protocol would be as follows:
 - (i) Consideration of the basic adaptation of national legislation in accordance with the Protocol;
 - (ii) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of article 5 of the Protocol;
 - (iii) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Protocol;
 - (iv) Exchange of views and experience regarding record-keeping, marking of firearms and licensing gained in the implementation of articles 7, 8 and 10 of the Protocol;

⁸ General Assembly resolution 55/25, annex I.

⁹ General Assembly resolution 55/255, annex.

(c) Requested the secretariat to collect information from States parties and signatories to the Firearms Protocol, in the context of the above programme of work, using for that purpose a questionnaire to be developed in accordance with guidance provided by the Conference of the Parties at its second session;¹⁰

(d) Requested States parties to respond promptly to the questionnaire circulated by the secretariat;

(e) Invited signatories to provide the information requested by the secretariat;

(f) Requested the secretariat to submit to the Conference of the Parties at its third session an analytical report based on the responses to the questionnaire.

Decision 2/6

Technical assistance activities

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime, bearing in mind that matters relating to technical assistance should be addressed primarily by the Conference of the Parties,

(a) Decided to establish an open-ended interim working group, chaired by a member of the bureau, in accordance with article 32, paragraph 3, of the United Nations Convention against Transnational Organized Crime,¹¹ and rule 2, paragraph 2, of the rules of procedure of the Conference of the Parties, to advise and assist it in the implementation of its mandate on technical assistance;

(b) Requested the secretariat to continue to develop an information base for assessing challenges in implementing the Convention and the Protocols thereto, through analytical reports on the implementation of the Convention and the Protocols based on information provided by States parties and signatories in response to the questionnaires sent to them by the secretariat, requests from States for technical assistance and lessons learned from assistance previously rendered;

(c) Decided that the working group should perform the following functions:

(i) Review needs for technical assistance in order to assist the Conference of the Parties on the basis of the information bases established by the secretariat;

(ii) Provide guidance on priorities based on multi-year programmes approved by the Conference of the Parties and its directives;

(iii) Take into consideration, as appropriate and readily available, information on technical assistance activities of the secretariat, as well as of States, and on projects and priorities of States, other entities of the United Nations system and international organizations, in the areas covered by the Convention and its Protocols;

(iv) Facilitate mobilization of potential resources;

¹⁰ It was the understanding of the Conference that the questionnaire referred to in this paragraph would not include questions on the implementation of articles 7, 8 and 10 of the Protocol.

¹¹ General Assembly resolution 55/25, annex I.

(d) Requested the secretariat, on the basis of guidance provided by the Conference of the Parties and its working group, to develop project proposals to address the needs identified, taking into consideration equitable geographical distribution, and different legal systems as appropriate;

(e) Decided that the working group should meet during the third session of the Conference of the Parties and, within existing resources, should hold at least one intersessional meeting before the fourth session of the Conference of the Parties;

(f) Requested the secretariat to assist the working group in the performance of its functions;

(g) Decided that the Chairman of the working group should submit a report on the activities of the working group to the Conference of the Parties;

(h) Requested the secretariat to submit a report to the Conference of the Parties at its fourth session on its relevant technical assistance activities;

(i) Decided to review and take a decision on the effectiveness and future of the working group at its fourth session, in 2008.

II. Introduction

2. In its resolution 55/25 of 15 November 2000, the General Assembly adopted the United Nations Convention against Transnational Organized Crime and two supplementary protocols thereto, 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. In its resolution 55/255 of 31 May 2001, the Assembly adopted a third protocol to the Convention, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The Convention entered into force on 29 September 2003, the Trafficking in Persons Protocol on 25 December 2003, the Migrants Protocol on 28 January 2004 and the Firearms Protocol on 3 July 2005.

3. Pursuant to article 32 of the Convention, a Conference of the Parties to the Convention was established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention.

III. Organization of the session

A. Opening of the session

4. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime held its second session in Vienna from 10 to 21 October 2005, during which it held 20 meetings.

5. The Conference was opened on 10 October 2005 by the President of the Conference of the Parties at its first session, followed by a moment of silence in memory of the victims of the natural disasters in Central America and South Asia.

6. All the speakers who took the floor during the first meeting expressed their sincere condolences and deepest sympathy to the victims and their families in the areas affected by those disasters.

7. The outgoing President of the Conference expressed his appreciation to the members of the bureau of the Conference at its first session for their invaluable support. He highlighted the achievements of the Conference at that session, in particular the approval of the programme of work, which had set the future direction of the Conference to discharge its mandates, and he underscored the importance of the second session in fulfilling the critical tasks set in the programme.

8. The newly elected President of the Conference encouraged the Conference at its second session to continue to explore ways and mechanisms to promote implementation of the Convention and its Protocols, including by devoting attention to issues related to technical assistance. In that connection, he emphasized that, while implementation of the instruments was the responsibility of Governments, the international community should rally to the assistance of developing countries and countries with economies in transition in order to fill gaps in capacity that hampered implementation. The President urged the Conference to be creative and innovative, as well as to keep an open mind.

9. The representative of India (speaking on behalf of the States Members of the United Nations that are members of the Group of 77 and China) welcomed the entry into force of the Firearms Protocol as well as the increase in the number of States parties to all the instruments. Emphasizing the important role that the Conference should play in enhancing the implementation of the instruments through the establishment of mechanisms to that end, he indicated that his Group attached great importance to the agenda item on technical assistance. Recalling the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (General Assembly resolution 55/59, annex), in which the need to address the root causes of crime was recognized, he called upon the international community to assist developing countries in that endeavour, as well as in implementing the Convention and its Protocols. In that connection, he underscored that the mechanisms for periodical review of the implementation of the instruments must include technical assistance to assist States parties in more effectively implementing them. Thus, the follow-up evaluation of technical assistance would be in effect a review of the implementation of the instruments. The process leading to the adoption of those mechanisms, however, must be open to all Member States, with a view to promoting universal ratification. Finally, he expressed his appreciation to the United Nations Office on Drugs and Crime (UNODC) for organizing the Round Table for Africa with the theme “Crime and drugs as impediments to security and development in Africa: strengthening the rule of law”, held in Abuja on 5 and 6 September 2005, and called upon UNODC to take similar initiatives for other regions in accordance with their requirements and at their request.

10. The representative of Ethiopia (speaking on behalf of the States Members of the United Nations that are members of the Group of African States) welcomed the entry into force of the Firearms Protocol and called upon all Member States that had not yet done so to consider either ratifying or acceding to it. The representative also expressed appreciation to UNODC for organizing the Round Table for Africa and to the Government of Nigeria for hosting the meeting. She reiterated that African

countries were committed to the implementation of the Programme of Action for Africa 2006-2010 that had emanated from the Round Table and called upon development partners to assist in its implementation, especially in the area of technical assistance for the effective implementation of the provisions of the Convention and its Protocols. She underlined that the second session of the Conference should agree upon mechanisms for achieving the objectives of the Convention, especially by facilitating training and technical assistance, implementation of the Convention through economic development and crime prevention and encouraging mobilization of voluntary contributions for those purposes. The representative of Ethiopia stated that Africa could attest to the linkage between insecurity and the activities of transnational organized criminal groups engaged in arms trafficking, which had prolonged conflicts and perpetuated humanitarian crises, in particular in countries emerging from conflict, and aggravated insecurity on the continent. She also stressed that organized crime, including trafficking in persons, kidnapping, extortion and financial crimes and corruption, jeopardized efforts to promote social and economic development. It was also important to define the relations between the Conference of the Parties and the Commission on Crime Prevention and Criminal Justice in order to avoid any duplication of responsibilities.

11. The representative of the Philippines (speaking on behalf of the States Members of the United Nations that are members of the Group of Asian States) emphasized that the Conference had achieved a great deal at its first session, in particular the adoption of the programme of work, which provided valuable guidance for the Conference, as well as individual States parties, in reviewing the progress made by States parties in aligning their legislative regimes with the Convention and its Protocols. Stressing that the capacity of States parties to implement the instruments effectively depended to no small extent on the availability of technical assistance, he hoped that the Conference at its second session would define its role with respect to assessing States' technical assistance needs, as well as devise the most effective responses to address such needs. He also emphasized the need to maximize the synergy between the Conference and the Commission on Crime Prevention and Criminal Justice, as well as the future Conference of the States Parties to the United Nations Convention against Corruption, thereby ensuring that well-coordinated and operational responses could be taken against transnational crime. Welcoming the recent entry into force of the Firearms Protocol, he expressed his hope that the Conference would devote appropriate attention to the review of the implementation of that Protocol.

12. The representative of the United Kingdom of Great Britain and Northern Ireland spoke on behalf of the States Members of the United Nations that are members of the European Union. The acceding countries Bulgaria and Romania, the candidate countries Croatia and Turkey, as well as the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia and Montenegro and European Free Trade Association countries Iceland and Norway, members of the European Economic Area, as well as the Republic of Moldova and Ukraine, associated themselves with the statement. The representative of the United Kingdom underlined that the European Union had participated actively in the first session of the Conference of the Parties and hoped that the second session would produce clear and focused outcomes that would ensure the successful implementation of the

Convention and its Protocols. The European Union took very seriously threats posed by transnational organized crime at the national, regional and international levels and stressed its commitment to an expeditious completion of the ratification process by its members. He underlined the importance for the session to discuss implementation and organization of common tasks. Expressing the support of the Union for the idea of developing a multi-year programme of work to cover the different subject areas of the Convention and the Protocols, he noted that it was important to continue a constructive dialogue leading to firm proposals to refine the work plan for future sessions. The representative stressed that the gathering, exchange and analysis of information had a significant role to play in the effective implementation of the Convention and, therefore, it was important to establish a clear picture of trends and developments in transnational organized crime as well as the steps being taken to combat it by Member States. In order to avoid, where possible, any duplication of work, it was essential to create conditions in which organizations could benefit from each other's knowledge. He reiterated that the Convention should be effective and have a significant impact on the problem of transnational organized crime as well as offer solutions for cooperation to ensure that resources were targeted and utilized in a way that would promote maximum impact and benefit to all.

13. The representative of Ukraine (speaking on behalf of the GUUAM States, Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Uzbekistan), underscored the importance of strong commitment on the part of the international community to strengthen joint efforts in combating transnational organized crime, which represented a great achievement of the United Nations. He emphasized that the Conference should become an effective instrument for further development of international cooperation in the fight against crime. The Conference offered an opportunity to continue consideration of the development of a mechanism to facilitate and coordinate implementation of the Convention. It was noted that such a mechanism should avoid duplication in the work of the Commission on Crime Prevention and Criminal Justice, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and the Conference of the States Parties to the United Nations Convention against Corruption. He stressed that the Organized Crime Convention and its Protocols provided a solid basis for strengthening the global system of coordinated action to combat organized crime at both the national and the international level. He underlined that the effective implementation of comprehensive crime prevention strategies at the local, national and international levels would be seminal and that the role of regional organizations and UNODC in those endeavours could hardly be overestimated. He emphasized that the group's Yalta Charter had committed it to the fight against international organized crime. That commitment had been reaffirmed at the summit, held in Chisinau in April 2005, and in its declaration entitled "In the name of democracy, stability and development", together with the need to further strengthen cooperation against international terrorism and extremism as well as trafficking in persons, illegal migration, proliferation of weapons of mass destruction, money-laundering and corruption. The GUUAM Virtual Centre on combating terrorism, organized crime, drug trafficking and other dangerous types of crime contained a unified data exchange system for counterterrorist activities and projects on strengthening cooperation and interaction between GUUAM States on border and customs control issues, which would strengthen their capacity to maintain national and regional

security. In that connection, he hoped that the cooperation of GUUAM with UNODC in those activities would be very useful for the group.

14. The representative of Mexico (speaking on behalf of the States Members of the United Nations that are members of the Group of Latin American and Caribbean States) emphasized the great importance the Group attached to the Convention and its Protocols, which promoted cooperation and the coordination of national efforts against transnational organized crime, through mechanisms such as mutual legal assistance, extradition, training and technical assistance. He therefore welcomed the increase in the number of States parties to the instruments, in particular the Firearms Protocol, which had enabled the entry into force of that Protocol, while he underscored the need to further promote the implementation of the instruments. On the basis of the principle of shared responsibility, he underscored the importance of technical assistance in overcoming difficulties in implementing the instruments, as well as the need to link technical assistance with mechanisms, as set forth in articles 30, paragraph 2 (c), and 32 of the Convention.

15. In his opening remarks the Director-General of the United Nations Office at Vienna and Executive Director of UNODC stressed that the Convention and its Protocols had made a Copernican shift in perspective, thereby enabling all States to realize that crime was no longer an evil that could be addressed by any single State but one that required a global response. In that respect, he urged those States which had not yet done so to ratify the Convention and its Protocols, offering the assurance that UNODC stood ready to assist States in that endeavour. Recognizing that crime was both the cause and consequence of poverty, insecurity and underdevelopment, he expressed his hope that UNODC could act as a catalyst and motivate development institutions to work with it in synergy. He also informed the Conference of the Office's recent initiatives to promote a comprehensive, balanced approach that would enable all to work on different fronts with equal force and effectiveness. To begin with, the Office had recently published the report *Crime and Development in Africa* and invited all participants to study that new initiative. In that connection, he underlined the significant roles that the Conference could play, not only in fighting crime and protecting victims, but also in promoting development, peace and security. For the Conference to succeed in that endeavour, he strongly encouraged it to give serious thought to how to ensure that all States parties complied with their obligations to provide it with the requested information in a prompt, accurate and complete manner. The Conference could not make specific recommendations without adequate information on implementation. Attention was also drawn to issues as to which provisions of the instruments the Conference should review next, with a view to broadening the knowledge base, as well as to making steady progress towards completing the first round of reviews on implementation. Finally, he brought to the attention of the Conference critical questions about technical assistance, recalling the linkage between technical assistance and implementation. He underlined that a strategic approach to technical assistance could translate into more efficient, better-targeted, properly tailored use of resources to meet specific requirements and to produce tangible, measurable results.

16. The Conference was informed that, during the second session, Bolivia, Cameroon and Lebanon had deposited their instruments of ratification of the Convention. Lebanon and Cameroon had also deposited their instruments of

ratification of the Trafficking in Persons Protocol and the Migrants Protocol. The representative of the United States of America informed the Conference that, on 7 October 2005, the United States Senate had given its advice and consent to the ratification of the Convention and the Trafficking in Persons Protocol and the Migrants Protocol. The representative stated that that action was a manifestation of the conviction of his country that, without the rule of law administered effectively, overseen democratically and reinforced internationally, it would be the criminals who ruled and the citizens of the world who suffered. Thus, the fight against transnational organized crime was crucial to collective efforts to advance human freedom and dignity, to combat terrorism and to create conditions for sustainable development. The President of the Conference expressed the gratification of the Conference and congratulated Bolivia, Cameroon, Lebanon and the United States on ratifying the Convention and the Protocols.

B. Election of officers

17. At its 1st meeting, on 10 October 2005, the Conference of the Parties elected the following officers by acclamation:

| | |
|-------------------------|---|
| <i>President:</i> | Peter Poptchev (Bulgaria) |
| <i>Vice-Presidents:</i> | Antenor Pereira Madruga Filho (Brazil) Amadou Traore (Burkina Faso) Wu Hailong (China) Ljiljana Vodopija-Cengic (Croatia) Jose Luis Santiago Vasconcelos (Mexico) Mandy McDonald (New Zealand)* Olawale Idris Maiyegun (Nigeria) Aurelio Perez Giralda (Spain) |
| <i>Rapporteur:</i> | Said Nasser Al-Harthy (Oman) |

18. At its first session, the Conference had decided that the offices of President and Rapporteur should rotate among the regional groups and that such rotation should take place in alphabetical order. Accordingly, at the second session, the Group of Eastern European States nominated the President of the Conference and the Group of Asian States was asked to nominate one Vice-President and the Rapporteur.

C. Adoption of the agenda and organization of work

19. At its 1st meeting, on 10 October 2005, the Conference of the Parties adopted the following agenda for its second session:

* Replaced by Gordon Hook (New Zealand) in the second week of the Conference (17-21 October 2005).

1. Organizational matters:
 - (a) Opening of the second session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;
 - (b) Election of officers;
 - (c) Adoption of the agenda and organization of work;
 - (d) Participation of observers;
 - (e) Adoption of the report of the bureau on credentials.
2. Review of the implementation of the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Convention;
 - (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of the relevant provisions of the Convention in accordance with its article 34, paragraph 2;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Convention.
3. Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Trafficking in Persons Protocol;
 - (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of article 5 of the Trafficking in Persons Protocol;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Trafficking in Persons Protocol;
 - (d) Exchange of views and experience regarding the protection of victims and preventive measures, gained primarily in the implementation of articles 6 and 9 of the Trafficking in Persons Protocol, including awareness-raising.
4. Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Migrants Protocol;

- (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of article 6 of the Migrants Protocol;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Migrants Protocol;
 - (d) Exchange of views and experience gained in the implementation of articles 15 and 16 of the Migrants Protocol.
5. Other matters:
 - (a) Consideration of matters pertaining 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;
 - (b) Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption.
 6. Technical assistance activities.
 7. Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraphs 3-5, of the Convention.
 8. Consideration of notification requirements in accordance with the relevant articles of the Convention (art. 5, para. 3; art. 6, para. 2 (d); art. 13, para. 5; art. 16, para. 5 (a); art. 18, paras. 13 and 14; and art. 31, para. 6) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (art. 8).
 9. Provisional agenda for the third session of the Conference of the Parties.
 10. Adoption of the report of the Conference of the Parties on its second session.

D. Participation

20. The second session of the Conference was attended by representatives of 68 States parties. Also attending the second session were signatory/observer States, other observer States and observers for organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.
21. At the second session, the bureau recommended that the Conference of the Parties accord observer status to the non-governmental organizations that appeared on the list of participants, a recommendation made on the understanding that, in future, the secretariat would comply strictly with rule 17 of the rules of procedure.
22. The list of participants is contained in annex II to the present report.

E. Adoption of the report of the bureau on credentials

23. In accordance with rule 18 of the rules of procedure:

“1. The credentials of representatives of each State Party and the names of the persons constituting the State Party’s delegation shall be submitted to the secretariat if possible not later than twenty-four hours in advance of the opening of the session.

“2. Any later change in the composition of the delegation shall also be submitted to the secretariat.

“3. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs or, in exceptional cases, by a person authorized by either of them, or, in the case of a regional economic integration organization, by the competent authority of that organization.”

24. Rule 19 of the rules of procedure provides that the bureau of any session shall examine the credentials and submit its report to the Conference of the Parties.

25. The bureau informed the Conference that out of the 68 States parties attending the second session, 53 States complied with the credentials requirements. Fifteen parties, Albania, Argentina, Bahrain, Belgium, Cape Verde, Colombia, France, the Libyan Arab Jamahiriya, Paraguay, Peru, Senegal, the Sudan, the former Yugoslav Republic of Macedonia and Uzbekistan, as well as the European Community, did not comply with rule 18 of the rules of procedure of the Conference of the Parties. The bureau emphasized the obligation of each State party to submit the credentials of representatives in accordance with rule 18 of the rules of procedure and called on those States parties which had not yet done so to provide the secretariat with their original credentials as soon as possible but not later than 26 October 2005.

26. The bureau also reported to the Conference that it had examined the credentials submitted and found them to be in order.

27. The Conference of the Parties adopted the report of the bureau on credentials at its 20th meeting, on 21 October 2005.

F. Documentation

28. At its second session, the Conference of the Parties had before it, in addition to the documents prepared by the secretariat, documents containing proposals submitted by Governments and by the President of the Conference (see the list of documents in annex III to the present report).

IV. Review of the implementation of the United Nations Convention against Transnational Organized Crime

29. At its 1st-5th meetings, on 10 to 12 October, the Conference of the Parties considered agenda item 2, “Review of the implementation of the United Nations Convention against Transnational Organized Crime”. The Conference had before it

an analytical report prepared by the secretariat (CTOC/COP/2005/2) on the basis of information received from a number of States parties and signatories in response to the questionnaire on the implementation of the Convention prepared by the secretariat and endorsed by the Conference at its first session (CTOC/COP/2004/L.1/Add.2).

30. Considering its work under agenda item 2, the Conference decided that it would, on the basis of the analytical report, consider compliance of States with the criminalization and international cooperation requirements of the Convention, as well as difficulties encountered by them in both areas. It decided that that should be done in the form of an interactive debate in plenary and that working groups could be constituted as required to foster more in-depth discussion and prepare draft decisions on specific issues for the consideration of the Conference.

31. An open-ended informal working group was accordingly constituted at the 5th meeting. Led by the Vice-President (Croatia), who was assisted by the Vice-President (Brazil), it focused on issues related to extradition, mutual legal assistance and international cooperation for purposes of confiscation. The outcome of the work of the working group was brought to the attention of the Conference at its 16th meeting in the form of a draft decision submitted by its chairperson (CTOC/COP/2005/L.10/Rev.1). (For a more detailed account of the work of the working group, see paras. 41-52 below.) Informal consultations were also held on the issue of updating information collected for the second session of the Conference and on the programme of work for the third session, leading to the submission of a draft decision by the Vice-President (New Zealand) (CTOC/COP/2005/L.2/Rev.1) at the 17th meeting.

32. Noting that only 47 per cent of States parties had responded to the questionnaire on the implementation of the Convention,¹² the Conference considered ways to address that situation, which limited the knowledge base it required to fulfil its mandate to review and make recommendations to improve the implementation of the Convention pursuant to article 32, paragraph 3 (d) and (e). It was emphasized that the provision of the information required by the Conference was a legal obligation for parties under article 32, paragraph 5, of the Convention. Responding to questionnaires prepared by the secretariat and endorsed by the Conference was also a way for parties to share the experience in implementation of the Convention, thereby facilitating international cooperation and creating opportunities for exchange of knowledge and best practices.

33. Some speakers commented on obstacles and difficulties encountered in fulfilling reporting obligations under the Convention and indicated that their countries needed assistance from the Secretariat in that regard.

34. Considering the issue of how the information provided by States through questionnaires should be compiled and disseminated to the Conference, some speakers expressed the wish to receive such information in a format that would allow identification of the status of compliance of each individual State party, in

¹² A representative of the secretariat indicated that the Syrian Arab Republic had responded to the questionnaire but that its response had not been reflected in the analytical report for technical reasons.

addition to the condensed and general analysis provided in the form of an analytical report.

35. Many speakers provided the Conference with detailed information on the adaptation of their national legislation to the criminalization requirements of the Convention. Reference was made to provisions of national penal codes and other domestic legislation establishing as criminal offences participation in an organized criminal group, laundering of the proceeds of crime, corruption and obstruction of justice, and explanations were provided of the specific elements of such offences in domestic provisions. Some speakers identified gaps in the domestic legislative coverage of such offences, referring for instance to the insufficient scope of predicate offences to money-laundering or to gaps in the constitutive elements of the offence of obstruction of justice. Information was also provided on the establishment of jurisdiction based on the mandatory and optional grounds provided for under the Convention, as well as on the establishment of liability of legal persons and on provisions enabling the confiscation of proceeds of crime. Confiscation of proceeds was identified by some speakers as an area where their country needed to gain additional knowledge and upgrade domestic legislation in order to reach full compliance with the Convention.

36. Many speakers reported to the Conference on the compliance of their countries with the international cooperation requirements of the Convention. They provided information on the legislative and treaty basis on which extradition and mutual legal assistance could be provided under their domestic legal systems. Some speakers identified inadequacies in their provision of international cooperation, including lack of a comprehensive legislative basis for the provision of mutual legal assistance, absence of domestic provisions for simplified extradition procedures and lack of familiarity with the use of videoconferencing for the provision of witness testimony. With respect to the obligation under the Convention to prosecute offenders who had not been extradited on the ground of nationality, one speaker noted that compliance with that obligation was hampered by difficulties in obtaining mutual legal assistance from other States for purposes of prosecution.

37. A number of speakers informed the Conference that their legislation was being reviewed and draft laws were being prepared to address shortcomings in implementation of the Convention. Some speakers indicated that new legislation had been enacted after completion of the questionnaire and that they would avail themselves of the opportunity to submit updated information in the subsequent questionnaire.

38. At the 5th meeting, the Minister of Justice of Chile made a statement to the Conference. Prior to presenting his country's legislative provisions adopted in compliance with the Convention, the Minister reported on Chile's efforts to reform its criminal justice system to ensure efficiency, transparency, impartiality and accessibility to all. The reform had included modernization of the penal procedure code, which entrusted to the public prosecutor the role of leading investigations and prosecution, as well as specific responsibilities relevant to the Convention, in the areas of protection of victims and witnesses and the provision of judicial cooperation to foreign States. The reform of the justice system had constituted a crucial preliminary step towards placing Chile in a position to fully meet its obligations under the Convention. The Minister highlighted the importance of a fully functioning, effective and impartial criminal justice system in ensuring

appropriate and uniform application of the law, in turn a prerequisite for success in efforts against transnational organized crime. He also emphasized the importance of education campaigns familiarizing the public at large with the functioning of the criminal justice system, as a way to increase the responsiveness, transparency and accountability of that system.

39. At the 5th meeting, the Deputy Minister of Justice of Azerbaijan made a statement. He stated that the discussion held at the first session of the Conference had allowed the development of effective strategies against transnational organized crime. He emphasized the need for further compliance with the instruments and informed the Conference of progress made by Azerbaijan since the first session, including its accession to the Firearms Protocol. The Deputy Minister emphasized that Azerbaijan participated actively in regional cooperation to combat organized crime, in particular within the framework of GUUAM as regards the fight against organized crime and other serious crimes. He noted that, in accordance with the principles of the Convention and other international instruments, the Government of Azerbaijan continued to strengthen its legislation and mechanisms against organized criminal groups. For example, his Government had recently adopted laws and programmes against corruption and human trafficking. In addition, the law enforcement agency of Azerbaijan was making efforts to facilitate information exchange and to provide effective responses to requests for extradition and mutual legal assistance. Finally, the Deputy Minister indicated that the transnational nature of organized crime had increased the need for international cooperation, which might be implemented by coordinated activities among international organizations and unified international legal norms. In that connection, he emphasized that UNODC should strengthen its role in providing technical assistance and training to newly independent States, as well as facilitate cooperation among law enforcement agencies.

40. In the course of the consideration of the item by the Conference, the secretariat brought to its attention a number of documents that might constitute useful tools for States in their implementation of the Convention. In addition to the *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*,¹³ these included the *travaux préparatoires* of the Convention (of which advanced copies were distributed in English at the Conference); the Model Treaty on Extradition (General Assembly resolutions 45/116 and 52/88); the Model Treaty on Mutual Legal Assistance in Criminal Matters (resolutions 45/117 and 53/112); the revised manuals on the respective model treaties, revised and updated by UNODC to include comprehensive references to the Organized Crime Convention and the United Nations Convention against Corruption (General Assembly resolution 58/4, annex); and the UNODC Model Law on Extradition (updated in 2004). Commenting on an exchange of views concerning the interpretation of provisions of the Convention on mutual legal assistance, the secretariat noted that such issues were usually dealt with in official commentaries to conventions. The Conference might wish to consider at a future session whether the time was ripe to ask its secretariat to produce such a commentary.

¹³ United Nations publication, Sales No. E.05.V.2.

Report of the informal working group on mutual legal assistance

41. Following the decision of the Conference of the Parties, in connection with its consideration of agenda item 2, to constitute working groups, as required, with a view to promoting discussion and exchange of views on specific issues and preparing draft decisions on such issues for the consideration of the Conference, a working group on mutual legal assistance was established at the request of the President of the Conference at its 5th meeting, on 12 October. Chaired by the Vice President (Croatia), and, in her absence, by the Vice-President (Brazil), the working group dealt with practical issues pertaining to mutual legal assistance, but also extended its working agenda to cover issues related to extradition and international cooperation for purposes of confiscation.

42. The group was of the view that the effective implementation of articles 16, 18 and 13 of the Organized Crime Convention, on extradition, mutual legal assistance and international cooperation for purposes of confiscation, respectively, was fundamental for the promotion of international cooperation among States parties to combat the offences covered by the Convention and its supplementary Protocols.

43. The group noted that, in accordance with article 18, paragraph 1, of the Convention, the aim of the instrument was to facilitate the provision among States parties of the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences falling within its scope of application. In view of that, the group was of the opinion that States parties should give serious consideration to rendering assistance, to the extent possible under their domestic law, even in the absence of dual criminality in accordance with article 18, paragraph 9, of the Convention.

44. The group recommended that discussion at the meeting of the working group to be held during the third session of the Conference could include consideration of the differences between civil and common law systems in relation to the documents furnished and the relevant evidentiary requirements for requests for extradition, as well as ways of overcoming related difficulties.

45. The group also pointed out that States parties should pay particular attention to articles 16, paragraph 16, and 18, paragraph 26, of the Convention and, to that effect, should consult each other before refusing a request for extradition or mutual legal assistance.

46. The group discussed the analytical report on implementation of the Convention (CTOC/COP/2005/2). Some speakers expressed concern about the accuracy of the statement in paragraph 92 of the report that mutual legal assistance treaties that provided for refusal on the ground of bank secrecy would normally be automatically invalidated between parties to the Convention.

47. There was also discussion of paragraph 95 of the report and the group confirmed the statement made therein that States parties might wish to consider reviewing existing grounds for refusal of mutual legal assistance in order to achieve the appropriate balance between the protection of national interests and fundamental principles and ensuring that the widest measure of assistance could be granted.

48. Commenting on paragraph 104 of the report, on grounds for refusal of requests for international cooperation for the purposes of confiscation, the group noted that

the paragraph might be read as implying that there should be no ground for refusal of such cooperation and requested the secretariat to clarify in updates of the report the relationship between article 13, on international cooperation for the purposes of confiscation, and article 18, on mutual legal assistance, in particular the point that the provisions of article 18 applied, *mutatis mutandis*, to article 13.

49. There was considerable discussion of the reporting obligation set forth in article 13, paragraph 5, of the Convention, which required States parties to furnish copies of their laws and regulations giving effect to article 13 and of any subsequent changes to such laws and regulations or a description thereof to the secretariat. In particular, discussion focused on how the material gathered could be used to promote effective cooperation. Questions were raised as to whether such material should be submitted in the language of the State party concerned or should be translated, prior to submission, into an official language of the United Nations which would entail considerable expense. It was also noted that providing a website address for such material would be more economical than providing paper copies. The group was of the view that those were significant issues, which should be given in depth consideration by the Conference of the Parties at its third session.

50. The group also expressed concern about the relationship between article 14 of the Organized Crime Convention, on disposal of confiscated proceeds of crime, and chapter V of the United Nations Convention against Corruption, focusing in particular on how States parties to both Conventions should deal with their implementation. The group agreed that the issue should be considered further. There was also discussion of the provisions of the Organized Crime Convention on the return and sharing of assets, as well as an exchange of national experience and practice in that area. The secretariat informed the group about the Model Bilateral Agreement on the Sharing of Confiscated Proceeds of Crime or Property covered by the Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,¹⁴ which had been negotiated in March 2005 by an intergovernmental expert group and adopted by the Economic and Social Council by its resolution 2005/14 of 22 July 2005.

Action taken by the Conference

51. At its 16th meeting, on 19 October, the Conference adopted a revised draft decision entitled “Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime” (CTOC/COP/2005/L.10/Rev.1), proposed by the informal working group (for the text, see chap. I, decision 2/2).

52. At its 17th meeting, on 20 October, the Conference adopted a revised draft decision entitled “Implementation of the United Nations Convention against Transnational Organized Crime and programme of work of the Conference of the Parties thereto” (CTOC/COP/2005/L.2/Rev.1), submitted by the Vice-President (New Zealand) (for the text, see chap. I, decision 2/1). At the same meeting, the Conference approved a draft questionnaire on the implementation of the United Nations Convention against Transnational Organized Crime, submitted by the secretariat (CTOC/COP/2005/L.4).

¹⁴ United Nations, *Treaty Series*, vol. 1582, No. 27627.

V. Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

53. At its 6th to 8th meetings, on 12 and 13 October, the Conference of the Parties considered agenda item 3, "Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime". The Conference had before it an analytical report of the secretariat (CTOC/COP/2005/3) containing a summary and a first analysis of the replies sent by States parties and signatories to the Trafficking in Persons Protocol, in response to the questionnaire on its implementation, prepared by the secretariat and endorsed by the Conference of the Parties at its first session (CTOC/COP/2004/L.1/Add.1).

54. All speakers recognized that trafficking in persons was one of the most complex, nefarious and multifaceted forms of transnational organized crime, which posed a serious threat to human security and dignity. They also agreed that combating such a crime effectively required concerted efforts and strategies at the national, regional and international levels and, above all, strong political will and determination on the part of Governments.

55. Commenting on the results of the first reporting cycle for the implementation of the Protocol established by the Conference of the Parties at its first session, most speakers expressed their appreciation for the work carried out by the secretariat in relation to the presentation and analysis of the national responses to the questionnaire. They noted that effective implementation of the Protocol at the national level should go beyond the development of an appropriate legal framework and should focus on the adoption of comprehensive and multidisciplinary strategies that would cover equally prevention, prosecution and protection of victims of trafficking. Others underscored the need for a human-rights-based approach to trafficking in persons as a key element of such a strategy. In that regard, it was underlined that such an approach required a high degree of participation and cooperation of all actors involved, including relevant sectors of civil society and non-governmental organizations.

56. Many speakers provided information on action taken at the national level to combat trafficking in persons, while others mentioned the development of national plans of action and strategies against such crime focusing primarily on border controls and strengthening of immigration rules, promotion of law enforcement measures and exchange of information, as well as measures to ensure protection of victims. Most speakers also reported on legislative measures, including provisions on criminalization, or on ongoing or planned law reform aimed at ensuring the consistency of domestic legislation with the requirements of the Protocol.

57. Many speakers focused in particular on issues related to protection of and assistance to victims of trafficking. In that context, the vulnerability of such victims was emphasized as the basic factor to be considered in implementing relevant protective measures. It was noted that, because of the major imbalance of power and

resources between victims of trafficking acting as witnesses in relevant criminal proceedings, on the one hand, and transnational organized criminal groups involved in their exploitation, on the other, the return of such victims to their home countries often resulted in a further increase in their vulnerability. In that connection, it was stressed that serious consideration should be given to measures focusing on the reflection period and residence status of victims of trafficking in the receiving States and that the repatriation of such victims should always be carried out with due regard to their safety. One speaker suggested that international cooperation to protect victims of trafficking could be enhanced by allowing their relocation, where necessary, to other countries that were able to ensure their safety through effective witness protection schemes.

58. Furthermore, it was stressed that vulnerable persons, especially women and children, were increasingly victimized during humanitarian crises caused by war or natural disasters, as the breakdown of institutions and their complementary support structures in disaster-stricken areas created immediate opportunities for traffickers. In that connection, prompt action had to be taken by Governments, in close cooperation with international and non-governmental organizations, to address, in particular, the precarious situation of unaccompanied children. It was also pointed out that, in view of the fact that natural disasters were inherently unpredictable, there was a need to design an emergency mechanism and take appropriate measures to enhance international cooperation to cope with such problems in the future.

59. The importance of victim protection and assistance, and in particular their impact on the effective prosecution of traffickers, was the subject of a panel discussion on human trafficking, organized on 17 October as a side event of the Conference of the Parties by the Government of Thailand in its capacity as chair of the Human Security Network. The event provided a forum for constructive discussion and exchange of views on how best to achieve protection and assistance measures for victims of trafficking as a shield against retaliation and intimidation by traffickers.

60. Some speakers placed emphasis on ways to achieve the identification of victims of trafficking and referred to relevant difficulties encountered by national authorities in relation to the issue. They noted, in that regard, that many trafficked persons were often not correctly identified by competent authorities in countries of destination and that, instead, they were treated as illegal or undocumented migrants, deported to their home countries and exposed to the risk of being re-trafficked.

61. Discussion on the exploitative element of trafficking highlighted the need to ensure common grounds of understanding and establish common standards as to what exploitation entailed and what forms it could take. In that connection, one speaker referred to national initiatives to promote research on forms of exploitation other than sexual exploitation and suggested that discussions at the third session of the Conference of the Parties could be devoted to related issues. Other speakers were of the view that further consideration should be given, in particular, to trafficking for the purpose of labour exploitation and that this would include identification of indicators of various forms of labour exploitation.

62. Several speakers pointed out that greater attention should be paid to the root causes of trafficking in persons and that consequently that crime should be considered in linkage with issues of poverty and development, in particular in

developing countries. It was noted, in that regard, that such consideration was especially relevant to the work of the Conference of the Parties in view of the low rate of responses to the questionnaire from developing countries. Some speakers stressed that addressing the root causes of trafficking in persons might include further efforts to deal with issues related to demand. One speaker proposed a study of the root causes of trafficking in persons.

63. In relation to preventive measures against trafficking in persons, many speakers emphasized the need for awareness-raising activities aimed at influencing public opinion and increasing the readiness of institutions, organizations, groups and individuals to address trafficking adequately, as well as for dissemination of information on the assistance available for victims of trafficking.

64. The need to harmonize national and international efforts to combat trafficking in persons was pointed out by several speakers. One speaker made reference to the Arab model law against trafficking as an example of action at the regional level intended to assist countries in adopting appropriate and effective legislation to counter trafficking.

65. Some speakers referred to difficulties encountered by national authorities in the fight against trafficking in persons mainly in view of the methods used by traffickers, including resorting to corrupt practices, and their efficiency in evading law enforcement action and techniques. One speaker identified the lack of interpretation in languages spoken in many of the countries of origin as one of the principal difficulties that national authorities faced in daily practice, which inevitably caused communication problems and minimized chances of cooperation with victims of trafficking. An additional problem was the reliability of interpreters, many of whom were found to be in collusion with trafficking networks and, thus, more liable to intimidate victims rather than to assist them.

66. Most speakers recognized the importance of technical assistance activities in building and enhancing domestic criminal justice and law enforcement capacity to combat trafficking in persons, while others referred to the need to launch regional projects in that area. The need for training programmes for criminal justice personnel, as well as law enforcement, immigration and other authorities involved in the fight against trafficking, was underlined. It was proposed that a catalogue or manual of best national practices in tackling trafficking in persons be developed by the secretariat. One speaker expressed the willingness of her country to share its practical experience and other information with interested Member States.

67. With a view to collecting information from States parties and signatories to the Protocol in the context of the second reporting cycle, the secretariat submitted a second draft questionnaire on its implementation (CTOC/COP/2005/L.8) to the Conference.

68. An analytical report based on the responses to that questionnaire would be prepared by the secretariat and submitted to the Conference at its third session.

69. The outcome of the related discussions was brought to the attention of the Conference of the Parties in the form of a draft decision submitted by the President (CTOC/COP/2005/L.3).

Action taken by the Conference

70. At its 18th meeting, on 20 October, the Conference of the Parties adopted the draft decision entitled “Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (CTOC/COP/2005/L.3). (For the text of the decision, see chap. I, decision 2/3.)

71. At the same meeting, the Conference approved the draft questionnaire on the implementation of the Trafficking in Persons Protocol (CTOC/COP/2005/L.8), as amended.

VI. Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

72. At its 9th to 11th meetings, on 14 and 17 October, the Conference of the Parties considered agenda item 4, “Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime”. The Conference had before it an analytical report of the secretariat (CTOC/COP/2005/4) containing a summary and a first analysis of the replies sent by States parties and signatories to the Migrants Protocol in response to the questionnaire on its implementation prepared by the secretariat and endorsed by the Conference of the Parties at its first session (CTOC/COP/2004/L.1/Add.4).

73. Commenting on the findings of the analytical report, most speakers expressed their appreciation for the work carried out by the secretariat in relation to the presentation and analysis of the national responses received in the context of the first reporting cycle for implementation of the Protocol.

74. Many speakers reported on national programmes, plans and practices, as well as legislative and administrative measures already taken to ensure compliance with the requirements of the Protocol. Other speakers referred to national efforts to adapt domestic legal frameworks in the near future in order to bring them into line with the provisions of the Protocol.

75. All speakers recognized the seriousness of the problems posed by the smuggling of migrants and spoke in support of enhancing cooperation at the regional and international levels as an essential factor to curb the phenomenon. It was underlined in that respect that the effectiveness of cooperation was contingent on the full commitment of national Governments to work together and display solidarity and responsibility, as well as on the convergence of the national interests of the countries involved. Other speakers identified certain areas in which international cooperation could be promoted, such as exchange of information, technical assistance and return of smuggled migrants to their home countries. The latter, in particular, was mentioned as a field in which much more progress should be made, given that some countries of origin had fallen short of expectations to facilitate and accept the return of migrants in an expeditious manner. Other speakers attributed that lack of progress to the weakness, or even non-existence, of measures

aimed at preventing smuggling of migrants. In relation to other areas of cooperation, one speaker emphasized the importance of establishing standardized mechanisms at the bilateral and multilateral levels for the purpose of confiscating proceeds derived from the smuggling of migrants and providing compensation to such migrants.

76. In addition, it was noted that international cooperation to combat smuggling of migrants could be facilitated and enhanced further by involving international organizations and agencies with a full range of activities and specific expertise in that area. One speaker therefore supported the idea of fostering complementarity and coordination between such organizations and agencies with a view to achieving the best results and avoiding duplication of efforts.

77. Many speakers emphasized the need to address the problems posed by the smuggling of migrants not only from the law enforcement and security perspective, but also with due regard to humanitarian factors and the need to ensure the fundamental human rights and dignity of the smuggled migrants.

78. Several speakers stressed that high priority should be accorded to addressing the root socio-economic causes of smuggling of migrants. It was underscored that poverty, unemployment and underdevelopment, in particular in developing countries, as well as the desire to seize economic opportunities elsewhere, were the underlying causes of such smuggling. It was stressed that the only way to prevent the phenomenon was by empowering potential migrants in their home countries and by promoting economic and community development in areas of high migration in order to curb migration and stabilize the population.

79. Many speakers recognized the lack of financial, technical and human resources and generally the lack of the necessary capacity as basic and major impediments to effective national action against smuggling of migrants. The provision of technical assistance was essential to enhance the domestic infrastructure and capacity needed to tackle the problem in an effective manner. Technical assistance activities and projects could focus on the provision of specific expertise to carry out legislative and policy reforms in line with the requirements of the Protocol; training programmes for migration officials; assistance in improving border controls and measures; strengthening the capacity of the judiciary, law enforcement and investigative authorities in dismantling criminal networks engaged in the smuggling of migrants; capacity-building to safeguard the human rights of migrants and guarantee minimum standards of humane treatment for them; assistance in the establishment of voluntary return programmes for smuggled migrants; and capacity-building, training and provision of appropriate equipment to prevent and detect the misuse and falsification of documents for purposes of smuggling.

80. With a view to collecting information from States parties and signatories to the Protocol during the second reporting cycle, the secretariat submitted a second draft questionnaire on its implementation (CTOC/COP/2005/L.9) to the Conference.

81. An analytical report based on the responses to that questionnaire would be prepared by the secretariat and submitted to the Conference at its third session.

82. The outcome of the related discussions was brought to the attention of the Conference of the Parties in the form of a draft decision submitted by the President (CTOC/COP/2005/L.6).

Action taken by the Conference

83. At its 18th meeting, on 20 October, the Conference of the Parties adopted the draft decision entitled “Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime” (CTOC/COP/2005/L.6). (For the text of the decision, see chap. I, decision 2/4.)

84. At the same meeting, the Conference approved the draft questionnaire on the implementation of the Migrants Protocol (CTOC/COP/2005/L.9).

VII. Other matters

A. Consideration of matters pertaining 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

85. At its 11th and 12th meetings, on 17 October, the Conference of the Parties considered agenda item 5 (a), “Consideration of matters pertaining 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”.

86. Several speakers welcomed the entry into force of the Firearms Protocol, underscoring the serious threats that the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition posed to the security of States and public security within States. Speakers also reported on progress made towards ratification of or accession to the Protocol.

87. Attention was drawn to the situation of States emerging from conflict and States surrounded by conflict zones, both of which were vulnerable to the security threats posed by the proliferation of small arms and light weapons. Several speakers also informed the Conference of the difficulties such States had faced in efforts at disarmament.

88. Many speakers described legislative measures that had been taken in order to bring their laws into compliance with the provisions of the Firearms Protocol, including the definition of firearms and related items and criminalization of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. A number of measures had been undertaken to control the movement of firearms, in particular, marking, record-keeping and export and import licensing, in line with the Protocol. The need for awareness-raising was mentioned and several speakers outlined campaigns that had been undertaken to that effect.

89. Several speakers made reference to specific examples of bilateral, multilateral, regional and subregional agreements, arrangements and projects that were being put in place with a view to addressing effectively the challenges posed by small arms and light weapons. It was emphasized that, in implementing the Firearms Protocol, attention should be also given to existing regional and subregional frameworks concerned with small arms and light weapons. In that connection, the observer for

the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies reported on its activities.

90. The need for States parties and signatories to designate their central authorities in order to further facilitate cooperation among themselves in accordance with the Firearms Protocol was underscored.

91. The need for financial assistance in implementing the provisions of the Firearms Protocol was reiterated by some speakers.

92. Some speakers pointed out several sources of trafficked firearms, such as firearms remaining after conflicts, stolen firearms and illicitly manufactured firearms, and underscored the need to further identify sources of trafficked firearms in order to address the phenomenon. In that regard, some speakers informed the Conference of their additional efforts to address the problem by undertaking measures in relation to collection and stock management of small arms and light weapons. Others highlighted the potential effectiveness of buy-back schemes.

93. Following the discussion, the Conference considered the development of a programme of work along the lines of the action that had been taken for the review of the implementation of the Convention and its two Protocols for the second session. The Conference based its discussion on a proposal made by the President.

94. With a view to collecting information from States parties and signatories to the Firearms Protocol, the secretariat submitted a draft questionnaire on its implementation (CTOC/COP/2005/L.5) to the Conference.

95. All comments made on the questionnaire will be taken into consideration by the secretariat in preparing the final version of the questionnaire, which will be sent to States parties and signatories with a view to obtaining the required information in the following areas, as determined by the Conference, for consideration at its third session:

- (a) Basic adaptation of national legislation in accordance with the Protocol;
- (b) Examination of criminalization legislation and difficulties encountered in implementation of article 5 of the Protocol;
- (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in implementing the Protocol;
- (d) Views and experience regarding record-keeping, marking and licensing gained in the implementation of articles 7, 8 and 10 of the Protocol.

An analytical report based on the responses to the questionnaire will be prepared by the secretariat and submitted to the Conference at its third session.

96. The outcome of the relevant discussions was brought to the attention of the Conference in the form of a draft decision submitted by the President (CTOC/COP/2005/L.7).

Action taken by the Conference

97. At its 12th meeting, on 17 October, the Conference of the Parties decided to establish a programme of work that would be reviewed at regular intervals and would cover for its third session the areas referred to in paragraph 95 above and

adopted the draft decision entitled “Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime” (CTOC/COP/2005/L.7). (For the text of the decision, see chap. I, decision 2/5.) The Conference adopted the decision on the understanding that the exchange of views on and experience in the implementation of measures on record-keeping, marking of firearms and licensing would not imply collection of information by the secretariat, but would serve as a guide for preparation by States parties and observers for the third session of the Conference.

98. At the same meeting, the Conference approved the draft questionnaire on the implementation of the Firearms Protocol (CTOC/COP/2005/L.5), as amended.

B. Other issues

99. The representative of Indonesia emphasized that the smuggling of natural resources by organized criminal groups posed a serious threat to the international community by fuelling conflicts, causing significant loss of national revenue, destroying the environment and destabilizing border security. The link between the smuggling of natural resources and other types of serious crime, such as corruption and terrorism, was also underscored. In Indonesia, the rampant smuggling of illegal timber caused massive ecological destruction. In that connection, he welcomed the United States President’s Initiative against Illegal Logging in June 2003, as well as its commitment to tackle the issue, which had been reflected in the outcome of the Group of Eight Environment and Development Ministerial Meeting in 2005. Recalling the fact that the Security Council had expressed its concerns on the matter, he called upon the Conference to address the smuggling of natural resources at its next session. The need for international cooperation and technical assistance, as well as a wide range of instruments on the matter, was also underlined.

100. The representative of the Netherlands, speaking on behalf of the States Members of the United Nations that are members of the European Union, submitted the following proposal for amendment to the rules of procedure for the Conference of the Parties (CTOC/COP/2005/L.13):

“Rule 22 “Election

“1. At the end of each session, a President, eight Vice-Presidents and a Rapporteur shall be elected from among the representatives of the States Parties.

“2. The President, the Vice-Presidents and the Rapporteur so elected shall serve as the officers of the subsequent session and guide the secretariat in the preparations for that session and for any intersessional meetings that may be held.

“3. In electing the officers of the session, each of the five regional groups shall be represented by two officers, one of whom shall be from among the representatives of the States that are Parties to the Convention and one or more and if possible all the Protocols that have entered into force by the opening of the session. The bureau shall include at least two representatives of

States that are Parties to all the instruments that have entered into force by the opening of the session. The offices of the President and Rapporteur of the Conference shall normally be subject to rotation among the five regional groups.”

101. Several speakers expressed the views that revisions of the rules of procedure required more careful consideration and extensive consultation among experts of States. One of the concerns expressed was that such an amendment would prevent States that became parties during the period between two sessions from being elected to serve on the bureau. Other speakers supported the proposal put forward by the Netherlands, stating that it would encourage the bureau to be more actively involved in preparing the substance of the Conference of the Parties.

102. Following extensive discussion on the proposal, the Conference decided to defer consideration of the matter to its third session. The representative of the Netherlands reserved the right to resubmit the proposal with amendments to the Conference at its third session.

103. One representative expressed the view that a legal opinion on the proposed amendment should be sought from the Office of Legal Affairs of the Secretariat.

C. Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption

104. At its 13th meeting, on 18 October, the Conference of the Parties considered agenda item 5 (b), “Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption”. It had before it a report of the secretariat on the subject (CTOC/COP/2005/5).

105. In introducing the item, the President noted that the discussion by the Conference of the Parties was not meant to lead to any decision that would affect the Commission on Crime Prevention and Criminal Justice or the future Conference of the States Parties to the United Nations Convention against Corruption. He emphasized that the objective of considering the relationship between the three intergovernmental bodies was to ensure that they fulfilled their respective mandates with maximum efficiency and worked in a complementary and consistent manner, while avoiding duplication of efforts and overlapping of functions.

106. Many speakers noted that the three bodies, while pursuing the common objective of strengthening international cooperation in crime prevention and criminal justice, each had well-defined distinct and specific mandates and functions. The Conferences of the Parties were entrusted with reviewing and facilitating the implementation of the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption, respectively, while the Commission was the principal policy-making body of the United Nations in the field of crime prevention and criminal justice. As such it provided essential strategic

guidance to States and was in a position to assess trends and address emerging forms of criminality, such as cybercrime, trafficking in body parts or trafficking in natural resources. There was no redundancy between the three entities, since each had a distinctive area of competence and a fundamental role to play.

107. Many speakers were therefore of the opinion that avoiding duplication of work would not constitute a major issue, as long as each body remained within its own clearly defined area of competence. It was noted that the main responsibility for avoiding duplication would lie with the States participating in the deliberations of the bodies. The fact that the secretariats of the Conferences and the Commission were staff of one and the same entity, UNODC, would in that context prove helpful, as the secretariats would be in a position to alert each body to any risk of duplication that might arise from decisions envisaged by the others.

108. Adequate coordination and communication were also essential in preventing duplication and fostering the most efficient use of resources. Several speakers suggested that the reports of the Conferences of the Parties should be brought to the attention of the Commission and that the Conferences should be kept apprised of the work of the Commission.

109. On the question of the relationship between the Conference of the Parties to the Organized Crime Convention and the future Conference of the States Parties to the United Nations Convention against Corruption, some speakers expressed the view that the Conference of the States Parties should in due course be responsible for in-depth consideration of corruption-related issues so as to maximize consistency in the implementation of article 8 (Criminalization of corruption) of the Organized Crime Convention. It was recognized, however, that the scope of application of the two Conventions was different and that related implications had to be taken into full consideration.

110. Commenting on the methods of work of the Conference of the Parties, several speakers expressed the view that, as its work would evolve to combine discussion of legislative implementation with consideration of practical obstacles to implementation, the Conference should benefit increasingly from the presence of experts and practitioners. It was emphasized in that regard that the agenda of the Conference should be focused, allowing delegations to undertake thorough preparations on the basis of documentation provided in a timely manner by the secretariat and to hold open and substantive discussions. One speaker emphasized that non-governmental organizations would have an important role to play in assisting the Conference to address practical issues of implementation of the Convention.

111. The view was expressed that, while the participation of experts in the work of the Conference was desirable, the Conference should also be attended by high-level government representatives, who would manifest the strong commitment of States parties to address the serious threat of transnational organized crime. Invitations to the Conference should provide guidance to States in ensuring representation at the appropriate level.

112. Comments were made on the length of the sessions of the Conference. Some speakers noted that it was difficult for delegations to cover a two-week conference. Other speakers cautioned against hasty decisions, drawing attention to the fact that,

after its third session, in 2006, the Conference would begin a biennial cycle and would as a consequence have a heavy programme of work.

113. In that context the opinion was expressed that it would be advisable for the bureau, possibly complemented by friends of the President and with the support of the secretariat, to bridge the two-year gap between the sessions by meeting in the interval and preparing for the following session.

114. Noting that in 2006 the Conference of the Parties to the Organized Crime Convention and the Conference of the States Parties to the United Nations Convention against Corruption would both hold a session, their third and first, respectively, one speaker hoped that such a situation could be avoided in future years and said that attention should be paid to that matter when preparing the rules of procedure for the Conference of the States Parties to the Convention against Corruption.

VIII. Technical assistance activities

115. At its 14th to 16th meetings, on 18 and 19 October, the Conference of the Parties considered agenda item 6, "Technical assistance activities".

116. Prior to the second session of the Conference of the Parties, on 5 October, informal consultations had been held in accordance with decision 1/4 of the Conference at its first session. At its second session, the Conference noted with appreciation the results of those informal consultations.

117. Given the importance of the issue of technical assistance, the Conference decided to refer it to an informal working group, chaired by the Vice-President (Nigeria), with a view to facilitating the deliberations of the Conference on the matter.

118. The Vice-President (Nigeria) brought to the attention of the Conference the conclusions and recommendations of the informal working group in the form of a draft decision for further consideration by the Conference (CTOC/COP/2005/L.12). The Conference expressed its gratitude to the informal working group for its work and decided to proceed on the basis of the outcome of that work.

Action by the Conference

119. Subsequent to its preliminary exchange of views on the outcome of the work of the informal working group, the Conference had before it the revised draft decision on technical assistance activities submitted by the President.

120. At its 16th meeting, on 19 October, the Conference considered the revised draft decision on technical assistance activities (CTOC/COP/2005/L.12/Rev.1) and adopted it as orally amended. (For the text of the decision, see chap. I, decision 2/6.)

121. Some delegations expressed the view that the term "secretariat" in subparagraphs (c) (iii) and (d) of the decision was used on the understanding that it included UNODC in its full programmatic and operational capacity.

IX. Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraphs 3-5, of the Convention

122. At its 19th meeting, on 21 October, the Conference of the Parties considered agenda item 7, on mechanisms for achieving the objectives of the Conference in accordance with article 32, paragraphs 3-5, of the Convention.

X. Consideration of notification requirements in accordance with the relevant articles of the Convention (art. 5, para. 3; art. 6, para. 2 (d); art. 13, para. 5; art. 16, para. 5 (a); art. 18, paras. 13 and 14; and art. 31, para. 6) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (art. 8)

123. At its 19th meeting, on 21 October, the Conference of the Parties considered agenda item 8, on notification requirements in accordance with the relevant articles of the Convention (art. 5, para. 3; art. 6, para. 2 (d); art. 13, para. 5; art. 16, para. 5 (a); art. 18, paras. 13 and 14; and art. 31, para. 6) and the Migrants Protocol (art. 8). The Conference of the Parties had before it the note by the Secretariat on notifications, declarations and reservations received by the Secretary-General (CTOC/COP/2005/7 and Add.1). The note provided information on the notifications submitted to the Secretary-General in accordance with the relevant provisions of the Organized Crime Convention and the Migrants Protocol. Declarations and reservations made by States parties at the time of signature or ratification, acceptance, approval or accession in relation to the Convention and its Protocols were also included.

XI. Provisional agenda for the third session of the Conference of the Parties

124. At its 20th meeting, on 21 October, the Conference of the Parties considered the draft provisional agenda and proposed organization of work for the third session of the Conference of the Parties (CTOC/COP/2005/L.11/Rev.1). Following considerable discussion on the optimal duration and possible dates of the third session of the Conference, the Conference adopted the draft provisional agenda contained in annex I. In adopting the draft provisional agenda, the Conference indicated its intention to devote more in-depth attention to matters related to prevention of transnational organized crime at a future session. It also indicated its intention to consider matters related to money-laundering in more detail at its fourth session. The Conference requested its bureau to review and develop a proposed organization of work for the third session in consultation with the secretariat and the Chairmen of the regional groups.

XII. Adoption of the report of the Conference of the Parties on its second session

125. At its 20th meeting, on 21 October 2005, the Conference of the Parties adopted the report on its second session (CTOC/COP/2005/L.1 and Add.1-6).

Annex I

Draft provisional agenda for the third session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime

Provisional agenda

1. Organizational matters:
 - (a) Opening of the third session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;
 - (b) Election of officers;
 - (c) Adoption of the agenda and organization of work;
 - (d) Participation of observers;
 - (e) Adoption of the report of the bureau on credentials.
2. Review of the implementation of the United Nations Convention against Transnational Organized Crime:
 - (a) Issues of compliance with the Convention, including money-laundering (article 7);
 - (b) Consideration of matters related to the protection of witnesses and victims (articles 24 and 25);
 - (c) Consideration of matters related to international legal cooperation (articles 16, 17, 18, 13 and 14).
3. Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of matters related to assistance to and protection of victims of trafficking in persons (article 6) and the status of such victims in receiving States (article 7);
 - (b) Consideration of matters related to repatriation of victims of trafficking in persons (article 8);
 - (c) Consideration of matters related to prevention of trafficking in persons (article 9) and information exchange and training (article 10).
4. Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of matters related to protection and assistance measures for smuggled migrants (article 16);
 - (b) Consideration of matters related to return of smuggled migrants (article 18).

5. Review of the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Basic adaptation of national legislation in accordance with the Protocol;
 - (b) Examination of criminalization legislation and difficulties encountered in the implementation of article 5 of the Protocol;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Protocol;
 - (d) Views and experience regarding record-keeping, marking and licensing gained in the implementation of articles 7, 8 and 10 of the Protocol.
6. Technical assistance.
7. Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraphs 3-5, of the Convention.
8. Budgetary and financial questions.
9. Other matters.
10. Provisional agenda for the fourth session of the Conference of the Parties.
11. Adoption of the report of the Conference of the Parties on its third session.

Annex II

List of participants

States parties

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| Afghanistan | Zia Nezam, Amanullah Zeweri |
| Albania | Zef Mazi, Albana Dautllari, Ermal Mertiri |
| Algeria | Taous Feroukhi, Rabah Fassih, Nabil Hattali, Nassima Baghli, M'hamed Oualitsene, Djamel Feloussi, Rachid Zougali, Thouraya Benmokrane, Salah Derradji |
| Argentina | Elsa Kelly, Betina Pasquali de Fonseca |
| Australia | Julia Josephine Galluccio, Kathryn F. Ovington |
| Austria | Thomas Stelzer, Brigitte Pfriemer, Barbara Schrotter, Christian Manquet |
| Azerbaijan | Togul Musayev, Faud Ismayilov, Ramiz Baxishov, Anar Balayev, Rashid Rzayev, Gulmirza Cavadov |
| Bahrain | Abdulrahman Saleh Sultan Senan Aldoseri, Fahad Ebrahim Ali Fadhala Alfadhala, Waleed Abbulla Saleh Dowaisan |
| Belgium | Philippe Nieuwenhuys, Christian Doods, Jean-Sébastien Jamart |
| Brazil | Claudia Chagas, Carmen Lidia Richter Ribeiro Moura, Paulo César Domingues, Nicolau Dino, Adrienne Senna Jobim, Antenor Pereira Madruga Filho, Danielle Aleixo Souza, Celso Marcos Vieira de Souza, Jáner Tesch, Hugo Lazar, Maria Feliciano Ortigao, Carlos Eduardo da Cunha Oliveira |
| Bulgaria | Peter Poptchev, Milcho Milchev, Dimana Dramova, Lassen Tomov |
| Burkina Faso | Béatrice Damiba, Amadou Traore, Thomas Dakoure, Rita Solange Bogore, Sifana Ibsen Kone, Etienne Ouoba, Hermann Marie Omer Bambara |
| Canada | Jennifer Irish, Bruce Gillies, Christopher Ram, Shawn Scromeda, Douglas Scott Proudfoot, Yves Beaulieu |
| Cape Verde | João Pinto Semedo |
| Chile | Milenko E. Skoknic, Eduardo Schott, Juan Cristóbal González, Héctor Muñoz |

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| China | Wu Hailong, Bao Hongxia, Wang Dong, Chen Peijie, Sun Yong, Chen Min, Guo Yang, Yin Haigang, Guo Jiakun |
| Colombia | Rosso José Serrano Cadena, Ciro Arevalo, Julfan Pinto Galvis, Gustavo Adolfo Ricaurte Tapia |
| Croatia | Zeljko Horvatic, Vladimir Matek, Ljiljana Vodopija-Cengic, Ranko Vilovic, Vesna Vukovic, Ljerka Brdovcak |
| Cyprus | Kornelios Korneliou, Spyros Attas, Andreas Photiou, Eleni Apeyitou |
| Denmark | Gunnar Ortmann, Christian Wegener, Inge Molt-Ipsen |
| Ecuador | Byron Morejón Almeida, Rosa Vásquez de Messmer |
| Egypt | Ramzy Ezzeldin Ramzy, Eskander Ghattas, Abdulwahab Bakir, Reeham Khalil, Maiada Essam Abdelrahman |
| El Salvador | Byron Fernando Larios López, Mario Castro Grande |
| Estonia | Katrin Saarsalu, Jaak Lensment |
| Finland | Kirsti Kauppi, Tomi Vuori, Liisa Timonen, Mika Lehtonen, Tarja Kangaskorte, Pasi Kokkonen |
| France | François-Xavier Deniau, Michèle Ramis-Plum, Olivia Diego, Nicholas Lorach |
| Guatemala | Luis Alberto Padilla, Sandra Noriega, Sylvia Wohlers de Meie |
| Kenya | Julius K. Kandie, James Kihwaga, Jacob N. Ondari, Patrick Ochieng Obimo, Moses Wekesa Nyarweni |
| Latvia | Aivars Vovers, Dagmara Usca, Dace Timane, Martins Klive |
| Lesotho | Borotho Matsoso, L. Mosala |
| Libyan Arab Jamahiriya | Amer Mohamed E. Elforjani |
| Lithuania | Rytis Paulauskas, Lina Ruksteliene |
| Malaysia | Rajmah Hussain, Jojie Samuel, Mohamed Suffian Mohamed Kasim, Hazreen Abdul Haleem, Nor' Azam Modh Idrus |
| Malta | Walter Balzan, Christopher Grima, Pierre Clive Agius, Joe Debono |
| Mauritania | Badara Aly Touré |

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| Mexico | Jose Luis Santiago Vasconcelos, Rafael Gerardo Rios Garcia, Patricia Espinosa Cantellano, Claudia del Refugio Sanchez Castro, Armando Vivanco Castellanos, Iliana Ramirez Mazon, Guadalupe Dominguez Barroso |
| Monaco | Claude Giordan, Bernard Gastaud |
| Morocco | Omar Zniber, Redouane Houssaini, Dina Bennani, Fadel Ataallah |
| Namibia | Olyvia M. Imalwa, Issaskar V. K. Ndjoze, D. R. Smith, Colin Namalambo, R. Haoseb |
| Netherlands | Hans Abma, Marjorie Bonn, Just Wiarda, Ines Coppoolse, Anke Ter Hoeve-Van Heek |
| New Zealand | Barbara Bridge, Gordon Hook, Mandy McDonald, Warren Waetford |
| Nigeria | Biodun Owoseni, Olawale Idris Maiyegun |
| Norway | Else Mette Naess, Audhild Nydal Enger, Tove Skarstein, Frederik G. Ranke, Marianne Volland, Audgun Syse, Ole Lundby, Kamilla H. Kolshus |
| Oman | Mohammed Khalfan Al-Deghaishi, Said Nasser Al-Harthy, Ahmad Said Al-Hasani, Abdullah M. Al-Amri, Selim Abbas |
| Paraguay | Oscar Cabello, Marcela Afara |
| Peru | Harry Belevan-McBride, Carmen Azurin, Denisse Luyo |
| Philippines | Victor G. Garcia III, Reynaldo G. Wycoco, Josel F. Ignacio, Arnulfo R. Perez, Vert T. Chavez |
| Poland | Mariuz Skowronski, Anna Grupinska, Piotr Mierecki |
| Portugal | António Sennfelt, Maria do Carmo Costa, Liliana Araújo, Paulo Gomes |
| Romania | Liviu Bota, Ion-Gabriel Sotirescu, Narcisa Vladulescu, Dorel Morariu, Mircea Mindruta, George Ogarca, Gabriel Barbatei, Dan Mocioi, Catalina Stroe |
| Russian Federation | Nikolay R. Kudashev, Arkady V. Tonkoglas, Alexander F. Merukhin, Valery A. Grobovoy, Alexander V. Dashko, Sergey V. Alenkin, Svetlana Yu Kolosova, Alla B. Nanieva, Valery A. Kolodyazhny |
| Senegal | Abdou Aziz Ndiaye, Moussa Fall |

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| Serbia and Montenegro | Vesko Garčević, Mladen Spasić, Miroslava Beham, Jovica Ćekić |
| Slovakia | Juraj Machác, Igor Grexa, Tomas Hrbác, Hana Kováčová, Josef Szabó, Alexander Kunosik, Lubica Stehliková, Jana Juricková, Peter Klanduch |
| Slovenia | Ernest Petric, Dragica Urtelj, Goran Kriz |
| South Africa | Lorraine Makola, Kalyani Pillay, Gcinumuzi Ntlakana, Graham Hugh Anderson, Lowesa Antoinette Stuurman, Deon Erasmus, Sibongile Veronica Mancotywa, Kamla Governdor, Andrew Matlaba Mogadingoane |
| Spain | Aurelio Perez Giralda, Servando de la Torre, Ignacio Baylina Ruiz, Alfredo Pascual Martinez, José Maria de las Cuevas, Juan Francisco Delgado Blasco, José Luiz Martínez Férriz, Javier Leal Pérez |
| Sudan | Sayed Galal Eldin Elamin, Osman Merghani Mohamed Osman, Osama H. Salman, Kulong Manytuil Wijang |
| Sweden | Åsa Gustafsson, Håkan Öberg, Carina Lindström |
| The former Yugoslav Republic of Macedonia | Donka Gligorova, Zoran Stojcevski |
| Togo | Kouassi Dotche-Togbe, Kokou Nayo M'beou |
| Tunisia | Mohamed Daouas, Sami Bougacha, Hattab Hadaoui, Lamia Houidi |
| Turkey | Ahmet Ertay, Bekir Uysal, Tufan Höbek, Ilkel Temel, Hakan Kirmaci |
| Ukraine | Vasyl Marmazov, V. Yel'chenko, Viktor Voronin, Vasyl Pokotylo, Oleksiy Ilnytsky, Robert Sivers, Oleh Sklyar, Oleksandr Marchuk, V. Omelyan |
| Uruguay | Jorge Pérez Otermin, Elsa Borges Fernández |
| Uzbekistan | Alisher Kayumov, Durbek Amanov |
| Venezuela (Bolivarian Republic of) | Eladio Aponte Aponte, Miriam Garcia de Pérez, Nadeska Costante, Maria Auxiliadora Prince, Julian Ochoa |
| European Community | Christian Falkowski, Andrew Byrne, Michael Merker, Darius Karnowski, Marie-Thérèse Hampe |

Signatory/observer States

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| Angola | Fidelino Loy de Jesus Figueiredo, Dulce Gomes |
| Bolivia | Horacio Bazoberry Otero, Sergio Olmos Uriona, Julio Mollinedo Claros |
| Cameroon | Jean Dieudonné Ntsama, Emile Raoul Amougou Essono |
| Côte d'Ivoire | Claude Beke Dassys, Bakassa Bakayoko |
| Cuba | D. Lopez Aldama |
| Czech Republic | Ivan Pocuch, Pavel Caban, Oldrich Krulik, Marek Suchánek, Petr Havlík |
| Dominican Republic | Ramón Quiñones |
| Georgia | Victor Dolidze, Archil Ghegheckori, Ekaterine Zodelava |
| Germany | Herbert Honsowitz, Hans-Holger Herrnfeld, Michael Rupp, Martina Hackelberg, Ursula Elbers, Nicole Zündorf-Hinte |
| Greece | Theodoros Sotiropoulos, Nicholas Cricos, Iraklis Moskof, Nikoletta Pavlidou, Grigorios Lazos, Daniel Esdras |
| Hungary | Györgyi Martin Zanathy, Zsolt Bunford, Eva Padar |
| India | Sheel Kant Sharma, Radhika Lokesh, Hemant Karkare |
| Indonesia | Immanuel Robert Inkiriwang, Tri Priyo, M. Sujatmiko, Rachmat Budiman, Jajang Ruhiyat, M. Listyowati, Andhika Chrisnayudhanto, Lalu M. Iqbal, Dahlia Kusuma Dewi, Rahmawati Wulandari, Sandy Darmosumarto |
| Iran (Islamic Republic of) | Mohammed Mehdi Akhondzadeh, Ali Hajigholam Saryazdi, Esmaeil Baghaee Hamaneh |
| Ireland | David Donoghue, Cormac O'Reilly |
| Italy | Gabriel de Ceglie, Alessandro Azzoni, Stefano Dambruoso, Fabrizio Gandini, Christian Ponti, Giovanni Cangelosi, Luana di Pasquale, Gaia Giussani, Mariafrancesca Ventura |
| Japan | Yukiya Amano, Seiji Morimoto, Shigeki Sumi, Satoko Toku |
| Kuwait | Hamed Saleh Al-Othman, Tariq A. Al-Jaber, Zakaria A. Alansari, Zeiad Al-Anbaie |

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| Lebanon | Samir Chamma, Mohamad Kaddoura, Raymond Oueidat, Sarkis Tadros, Boutros Antoun Kanaan, Kabalan Frangieh |
| Luxembourg | Christian Braun, Pierre Franck |
| Republic of Korea | Kim Chong-Hoon, Rim Kap-Soo, Jeon Song-Won |
| Sierra Leone | Kande Bangura |
| Singapore | Jennifer S. Marie, Mathew Joseph, Chew Huey Ching, Loh Jee Cheong |
| Sri Lanka | Aruni Wijewardane, Ransiri Perera, Poshitha Perera |
| Switzerland | Rudolf Schaller, Martin Strub, David Best, Anita Marfurt |
| Syrian Arab Republic | Abboud Alsarraj, Safwan Ghanem, Mohamed Onfouan Naeb |
| Thailand | Adisak Panupong, Somchai Charanasomboon, Torsak Buranaruangroj, Piyatida Jermhansa, Vongthep Arthakaivalvatee, Cheevindh Nathalang, Thanida Menasavet |
| United Arab Emirates | Ali Hasan Mohamed Al Shirawi, Abdullah Yousuf Mohd Al Shamsi |
| United Kingdom of Great Britain and Northern Ireland | Peter Jenkins, Linda Margaret Ward, Mathew Pyne, Alison Crocket, Lucy Hinnie |
| United Republic of Tanzania | Esaka Deus Mugasa |
| United States of America | Gregory L. Schulte, Elizabeth Verville, George Glass, Thomas Burrows, Brian Carbaugh, Christine Cline, Kenneth Harris, William Kullman, Carla Menares Bury, Enrique Perez, Kenneth Propp, Guinnevere Roberts, Howard Solomon, Margaret Taylor, C. Scott Thompson |
| Viet Nam | Son Nguyen Ba, Nguyen Truong Giang, Nguyen Thanh Ha, Nguyen Van Phuoc, Khong Ngoc Son, Le Thi Van Anh, Pham Thi Thu |
| Zimbabwe | G. T. Mutandiro, V. A. Chikanda, S. Mutamba, M. Masango |
| Other observer States | |
| Holy See | James Reinert, Philippe Hannecart Angeli |
| Iraq | Tariq Aqrawi, Zina M. Hussein |
| Qatar | Abdullah Dha'in Al-Kawari |

United Nations Secretariat

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

United Nations bodies and institutes of the United Nations Crime Prevention and Criminal Justice Programme network

United Nations Development Programme, United Nations Interregional Crime and Justice Research Institute

Specialized agencies and other organizations of the United Nations system

United Nations Industrial Development Organization

Intergovernmental organizations

Asian-African Legal Consultative Organization, Council of Arab Ministers of the Interior, Council of Europe, Council of the European Union, International Centre for Migration Policy Development, International Organization for Migration, League of Arab States, Organization for Security and Cooperation in Europe, Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

Entities maintaining permanent observer offices

Sovereign Military Order of Malta

Non-governmental organizations*General consultative status*

Asia Crime Prevention Foundation, International Alliance of Women, International Council of Women, International Federation of Business and Professional Women, INFEDOP/EUROFEDOP of the World Confederation of Labour, Muslim World League, Soroptimist International, Zonta International

Special consultative status

Fondazione Giovanni e Francesco Falcone, Japan Federation of Bar Associations, National Council of German Women's Organizations, Pax Romana, Transparency International

Roster

International Police Association, Sporting Shooters Association of Australia

Annex III

List of documents before the Conference of the Parties at its second session

| <i>Symbol</i> | <i>Title or description</i> |
|-------------------------------|--|
| CTOC/COP/2005/1 | Annotated provisional agenda and proposed organization of work |
| CTOC/COP/2005/2 and Corr.2 | Implementation of the United Nations Convention against Transnational Organized Crime: analytical report of the Secretariat |
| CTOC/COP/2005/3 and Corr.1 | Implementation of the Trafficking in Persons Protocol: analytical report of the Secretariat |
| CTOC/COP/2005/4 and Corr.1 | Implementation of the Migrants Protocol: analytical report of the Secretariat |
| CTOC/COP/2005/5 | Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption: report of the Secretariat |
| CTOC/COP/2005/6 and Add.1 | Technical assistance activities: working paper prepared by the Secretariat |
| CTOC/COP/2005/7 and Add.1 | Notifications, declarations and reservations received by the Secretary-General: note by the Secretariat |
| CTOC/COP/2005/L.1 and Add.1-6 | Draft report |
| CTOC/COP/2005/L.2/Rev.1 | Implementation of the United Nations Convention against Transnational Organized Crime and programme of work of the Conference of the Parties thereto: revised draft decision submitted by the Vice-President |
| CTOC/COP/2005/L.3 | Implementation of the Trafficking in Persons Protocol: draft decision submitted by the President |
| CTOC/COP/2005/L.4 | Draft questionnaire on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto |
| CTOC/COP/2005/L.5 | Questionnaire on the implementation of the Firearms Protocol |
| CTOC/COP/2005/L.6 | Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: draft decision submitted by the President |

| <i>Symbol</i> | <i>Title or description</i> |
|---------------------------|---|
| CTOC/COP/2005/L.7 | Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime: draft decision submitted by the President |
| CTOC/COP/2005/L.8 | Draft questionnaire on implementation of the Trafficking in Persons Protocol |
| CTOC/COP/2005/L.9 | Draft questionnaire on the implementation of the Migrants Protocol |
| CTOC/COP/2005/L.10/Rev.1 | Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime: revised draft decision submitted by an informal working group on international cooperation established at the request of the President |
| CTOC/COP/2005/L.11 | Draft provisional agenda for the third session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime |
| CTOC/COP/2005/L.12/Rev.1 | Technical assistance activities: revised draft decision submitted by the President – |
| CTOC/COP/2005/L.13 | Amendment to rule 22 (Election) of the rules of procedure for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime: draft decision submitted by the Netherlands |
| CTOC/COP/2005/INF.1/Rev.1 | Revised provisional list of participants |
