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Agenda item 8

World crime trends and emerging issues and responses in the field of crime prevention and criminal justice

Ecuador and Mexico: revised draft resolution

International cooperation against trafficking in cultural property

The Commission on Crime Prevention and Criminal Justice,

Recognizing the criminal nature of trafficking in cultural property and its grave and detrimental impact on the cultural heritage of humankind, as well as the indispensable role of international cooperation in crime prevention and criminal justice responses to counter trafficking in cultural property and related offences in a comprehensive and effective manner, stressing that the development and maintenance of fair and effective criminal justice systems should be a part of any strategy to counter terrorism and transnational organized crime, and recalling in this respect the provisions of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,¹

Recalling the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954² and its Protocols,³ the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,⁴ adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 November 1970, the Convention on Stolen or Illegally Exported Cultural Objects,⁵ adopted by the International Institute for the Unification of Private Law on 24 June 1995, and other relevant international instruments,

Underlining the central role that is played by the United Nations Office on Drugs and Crime and the International Criminal Police Organization (INTERPOL) in preventing and countering all forms and aspects of trafficking in cultural property and related offences, including through fostering effective law enforcement and judicial cooperation,

¹ United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

² *Ibid.*, vol. 249, No. 3511.

³ *Ibid.*, vols. 249 and 2253, No. 3511.

⁴ *Ibid.*, vol. 823, No. 11806.

⁵ *Ibid.*, vol. 2421, No. 43718.



Noting the efforts being undertaken by Member States and regional and international intergovernmental organizations to address trafficking in cultural property, including the development of legal frameworks,

Recalling General Assembly resolution [66/180](#) of 19 December 2011 on strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking, in which the Assembly urged Member States and relevant institutions, as appropriate, to reinforce and fully implement mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat all forms and aspects of trafficking in cultural property and related offences, such as the theft, looting, damage, removal, pillage and destruction of cultural property, and to facilitate the recovery and return of stolen and looted cultural property, and recalling also General Assembly resolutions [68/186](#) of 18 December 2013 on strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking, [69/196](#) of 18 December 2014, entitled “International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences”, [69/281](#) of 28 May 2015 on saving the cultural heritage of Iraq and [70/76](#) of 9 December 2015 on return or restitution of cultural property to the countries of origin,

Alarmed by the growing involvement of organized criminal groups and terrorist groups in all forms and aspects of trafficking in cultural property and related offences, reaffirming the necessity of international cooperation in addressing all aspects of trafficking in cultural property, and noting that such cultural property is frequently transferred through licit markets, such as auctions, including over the Internet,

Recognizing the illicit nature of trafficking in cultural property, including its transnational dimension, and the importance of strengthening international cooperation, including through mutual legal assistance, in the detection, investigation and prosecution of this crime,

Reaffirming the commitment to striving to strengthen and implement comprehensive crime prevention and criminal justice responses to trafficking in cultural property, as set forth in the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,⁶

Recalling its resolution 24/2 of 22 May 2015, entitled “Strengthening crime prevention and criminal justice responses with respect to trafficking in cultural property and other related offences”,

Recalling also that article 18, paragraph 1, of the United Nations Convention against Transnational Organized Crime⁷ requires States parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, and that article 18, paragraph 13, requires States parties to designate a central authority with the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution,

Recalling further the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, adopted by the General Assembly in its resolution [69/196](#), and noting with appreciation the practical assistance tool to assist in the implementation of the Guidelines,

Recalling Human Rights Council resolution 37/17 of 22 March 2018 on cultural rights and the protection of cultural heritage,

⁶ General Assembly resolution [70/174](#), annex.

⁷ United Nations, *Treaty Series*, vol. 2225, No. 39574.

Recognizing that the Organized Crime Convention offers expanded opportunities for international cooperation in the fight against transnational organized crime, and convinced that, in this regard, the potential of this instrument is yet to be fully developed,

Taking note of Security Council resolution [2347 \(2017\)](#) of 24 March 2017, in which the Council recognized the indispensable role of international cooperation in crime prevention and criminal justice responses to counter trafficking in cultural property,

Commending Member States, cultural and educational institutions, museums and civil society for their efforts to combat the illicit trade in cultural property, and welcoming all initiatives for the voluntary return of cultural property that has been illicitly appropriated,

Bearing in mind that the establishment and optimization of swift, secure and reliable communication channels are vital in order to provide a rapid and timely response to a fast-moving crime of global magnitude,

Underlining the importance of all relevant United Nations entities coordinating their efforts while implementing their respective mandates,

Expressing deep concern that cultural property, including religious sites and objects, is increasingly targeted by terrorist attacks, often resulting in damage, theft or complete destruction, and condemning such attacks,

Expressing deep concern also about the loss, destruction, theft, pillage, illicit removal or misappropriation of cultural property from archaeological sites, museums, libraries, archives and other sites and any acts of vandalism or damage directed against cultural property, in particular in areas of conflict, including by terrorist groups,

1. *Encourages* Member States that have not yet done so to ratify or accede to the United Nations Convention against Transnational Organized Crime¹ and for States parties to consider using it as a legal basis for requests for mutual legal assistance and other forms of international cooperation, including in relation to trafficking in cultural property where the offence lies within the scope of the Convention;

2. *Welcomes* the adoption of Conference of the Parties to the United Nations Convention against Transnational Organized Crime resolution 8/1 of 21 October 2016, in which the Conference invited States parties, inter alia, to enhance the effectiveness of central and competent authorities in international cooperation in criminal matters to counter transnational organized crime, and urges States parties to implement that resolution, including where it is related to trafficking in cultural property;

3. *Encourages* Member States to review, as appropriate, their legislation, procedures and other practices relating to mutual legal assistance and, if necessary, amend them in order to comply with their obligations under the Organized Crime Convention and other applicable international legal instruments;

4. *Strongly encourages* Member States to apply the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences⁸ to the maximum extent possible, where appropriate, including by reviewing their legislation, procedures and other practices and, if necessary, amending them, drawing upon the Guidelines, in order to ensure their adequacy for preventing and combating trafficking in cultural property, in view of strengthening international cooperation in this field;

5. *Urges* Member States to request and provide the widest possible international cooperation, including mutual legal assistance, in accordance with domestic legal frameworks and applicable international legal instruments, in investigations, prosecutions, seizure and confiscation in relation to, as well as in the

⁸ General Assembly resolution [69/196](#), annex.

return or restitution of, trafficked, illicitly exported or imported, stolen, looted, illicitly excavated or illicitly traded cultural property, through appropriate channels and in accordance with domestic legal frameworks, and to make effective use, to that end, as applicable, of relevant tools and databases developed under the auspices of the United Nations Educational, Scientific and Cultural Organization, the United Nations Office on Drugs and Crime, the International Criminal Police Organization (INTERPOL) and the World Customs Organization, within their respective mandates, and of relevant regional, subregional and bilateral agreements;

6. *Encourages* Member States to enhance cooperation in the fight against illicit trafficking in cultural property, as well as the illegal removal of such property from the countries of origin, including in the prosecution of persons involved in such activities and extradition, in accordance with the laws of cooperating States and under applicable international law;

7. *Also encourages* Member States, where appropriate, to establish bilateral or multilateral agreements for mutual legal assistance in criminal matters, including agreements in the field of trafficking in cultural property and related offences;

8. *Invites* Member States who have not yet done so to criminalize trafficking in cultural property, in accordance with applicable international instruments, including stealing and looting at archaeological and other cultural sites, and to make it a serious crime, as defined in article 2 of the Organized Crime Convention, with a view to bringing within the scope of the Convention all aspects in trafficking in cultural property and related offences where those offences are transnational in nature and involve an organized criminal group as defined in the Organized Crime Convention, for the purposes of enhancing efforts to counter trafficking in cultural property by ensuring that States parties can make effective use of the tools of cooperation contained within that Convention to counter such offences;

9. *Calls upon* Member States, in accordance with their domestic legislation, to promote among their central and competent authorities the timely exchange of information and to establish or strengthen swift and reliable lines of communication and mechanisms for consultation and coordination between those authorities and the national bodies mandated to counter trafficking in cultural property, making use, where possible, of relevant cooperation networks in order to promptly notify countries of origin when objects that may be cultural property removed from their territory are identified;

10. *Urges* Member States to introduce effective national measures at the legislative and operational levels, where appropriate and in accordance with obligations and commitments under international law and national instruments, to prevent and combat trafficking in cultural property and related offences that benefit or may benefit terrorists or terrorist groups;

11. *Encourages* Member States to take effective measures to prevent the transfer of illicitly acquired or illegally obtained cultural property, in particular through auctions, including over the Internet, and to effectively return or restore it to its lawful owners;

12. *Also encourages* Member States to consider preparing domestic guidelines that specify the requirements and procedures for requesting mutual legal assistance in cases of trafficking in cultural property and to make them public, if possible, in at least one of the official languages of the United Nations, as well as to share such information with the Secretariat;

13. *Invites* Member States to continue designating contact points to facilitate international cooperation for the purposes of investigating and prosecuting trafficking in cultural property and reporting that information to the United Nations Office on Drugs and Crime for inclusion in the directory of competent national authorities, and requests the Office to keep that information up to date;

14. *Urges* Member States that have not done so to establish, in accordance with domestic legislation, designated central authorities or effective points of contact dedicated to facilitating international cooperation, including for extradition and mutual legal assistance requests, in order to effectively address transnational organized crime, including trafficking in cultural property, with the assistance of the United Nations Office on Drugs and Crime and relevant international organizations, and to facilitate the development of national, subregional, regional and international strategies, and other necessary measures, as appropriate;

15. *Recommends* that Member States prepare lists or inventories of stolen and/or lost cultural property, and consider making them public in order to facilitate the identification of that property, as well as use the tools at their disposal, such as the red lists of the International Council of Museums, the INTERPOL database on stolen works of art and the ARCHEO information exchange network of the World Customs Organization, in order to facilitate the actions of law enforcement agencies and, in that regard, invites Member States to afford one another the widest possible cooperation in preparing such lists or inventories;

16. *Encourages* Member States, including in collaboration with the United Nations Office on Drugs and Crime, to provide, upon request, training on international legal assistance to central and competent authorities, as well as to their ministerial, law enforcement and other authorities involved in the detection, investigation and return or restitution of trafficked cultural property;

17. *Also encourages* Member States to share information, on a voluntary basis, on their experiences and good practices with regard to trafficking in cultural property and related offences, including with a view to examining all options regarding new legal and other responses to this crime, and to bring those experiences and good practices to the attention of the United Nations Office on Drugs and Crime, as appropriate, and requests the Office to compile and disseminate that information within its existing mandates and reporting obligations;

18. *Further encourages* Member States, in cases in which a request for mutual legal assistance related to trafficking in cultural property cannot be executed for any reason, to consult the requesting State, before refusing the request, regarding the reasons for such refusal, to enable the requesting State to rectify the request, whenever possible;

19. *Requests* the United Nations Office on Drugs and Crime to continue to provide technical assistance to Member States, at their request, in relation to international cooperation in combating trafficking in cultural property, in cooperation with relevant international organizations and bodies;

20. *Invites* Member States, if they have not already done so, to provide to the United Nations Office on Drugs and Crime, where appropriate, their procedures for mutual legal assistance requests, including any special requirements addressing cultural property-related offences, and requests the Office to make available such information through the Sharing Electronic Resources and Laws on Crime knowledge management portal so that these procedures may be made widely available to other Member States;

21. *Requests* the United Nations Office on Drugs and Crime to seek comments from Member States, relevant intergovernmental and non-governmental organizations, the institutes of the United Nations crime prevention and criminal justice programme network and other relevant stakeholders with experience in international cooperation against trafficking in cultural property on the use and application of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences;

22. *Requests* the Executive Director of the United Nations Office on Drugs and Crime to report to the Commission on Crime Prevention and Criminal Justice at its twenty-eighth session on the implementation of the present resolution;

23. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes of the present resolution in accordance with the rules and procedures of the United Nations.
