

1997/29. Measures on the prevention and control of illicit trafficking in motor vehicles

The Economic and Social Council,

Alarmed by the rapid growth and geographical expansion of the illicit trafficking in motor vehicles, which increasingly transcends national borders,

Concerned about the increasing role of organized transnational crime in the theft of and illicit trafficking in motor vehicles,

Recognizing that car theft and illicit trafficking in motor vehicles, with their high costs, have adverse effects on the safety and national economies of Member States,

Recalling section II, paragraph 1 of its resolution 1995/27 of 24 July 1995, in which it requested the Commission on Crime Prevention and Criminal Justice to consider measures on the prevention and suppression of illicit trafficking in motor vehicles,

Emphasizing the need for strengthened and more effective international cooperation at all levels to fight illicit trafficking in motor vehicles,

Acknowledging, in particular, the importance of international police cooperation in the prevention of and the fight against illicit trafficking in motor vehicles and the need for a rapid exchange of information between States on the status and origins of motor vehicles,

Recognizing the work already undertaken by the International Criminal Police Organization in establishing a worldwide stolen vehicle database,

Welcoming the participation of and the contributions made by representatives of the private sector, in particular insurance companies, insurance crime bureaux and car manufacturers, in the prevention and control of illicit trafficking in motor vehicles,

1. *Expresses its appreciation* to the Government of Poland for acting as host to the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996, and to the Government of the United States of America for providing financial support for that conference;

2. *Also expresses its appreciation* to the Government of the Russian Federation for acting as host to the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held at Moscow from 28 February to 2 March 1997, and to the

Government of the United States of America, the United Nations Development Programme and the European Institute for Crime Prevention and Control, affiliated with the United Nations, for providing financial support for that conference;

3. *Takes note* of the recommendations of the Warsaw Conference, contained in the annex to the report of the Secretary-General on measures for the prevention and suppression of illicit trafficking in motor vehicles,¹⁶¹ and the Moscow Declaration, contained in annex I to the present resolution;

4. *Urges* Member States:

(a) To improve international cooperation in the prevention and control of theft of, trafficking in and other offences in connection with stolen vehicles and to negotiate and conclude, as appropriate, in compliance with domestic law, bilateral and/or multilateral agreements or arrangements on a simplified and effective procedure for recovering stolen vehicles that clearly define, *inter alia*, the documentation required, certification procedures, translation requirements, authorized expenses and the applicability of value-added tax, taking into account the Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles, contained in annex II to the present resolution, and other bilateral treaties, as well as the United Nations model treaties, such as the Model Treaty on Extradition,⁹⁰ the Model Treaty on Mutual Assistance in Criminal Matters,⁸⁸ the Model Treaty on the Transfer of Proceedings in Criminal Matters⁸⁹ and the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released,⁹¹ as necessary, as useful tools in improving international cooperation in the investigation and prosecution of cases involving illicit trafficking in motor vehicles;

(b) To improve the exchange of information on the theft of and illicit trafficking in motor vehicles, to explore the possibility of establishing national databases on stolen vehicles and other pertinent information, to support the efforts of the International Criminal Police Organization by supplying their national data on stolen vehicles to its Automated Search Facility International Stolen Vehicle Database, to exchange information among themselves on a bilateral, subregional or regional basis and, through international law enforcement entities, to fight illicit trafficking in motor vehicles more effectively;

(c) To consider developing compatible registration and titling procedures and documents for motor vehicles in order to facilitate the identification of rightful owners of such vehicles by competent national authorities, to harmonize the elements contained in the registration documents of motor vehicles as a means of preventing illicit trafficking in motor vehicles, to consider the possibility of integrating their national stolen vehicle databases into the international stolen vehicle database, to explore the possibility of establishing salvage control procedures to ensure that the title documents of wrecked vehicles are not used on stolen vehicles and to exchange information on how to improve the security features of car registration documents;

¹⁶¹ E/CN.15/1997/9.

(d) To consider making the necessary changes in their national laws and procedures to improve the response of the justice system to vehicle theft and trafficking and reduce to a minimum conflicting property issues derived from the international repatriation of stolen vehicles, giving due consideration to the interests of bona fide third parties;

(e) To make all possible efforts to strengthen their cooperation in this field at the bilateral, regional and interregional levels, *inter alia*, by:

(i) Promoting actively close operational cooperation and exchange of information among competent national authorities across national borders to detect, apprehend and bring to justice persons engaged in trafficking in stolen vehicles and to promote close cooperation among other relevant agencies to ensure the return of stolen vehicles to their rightful owners, in accordance with national laws;

(ii) Responding promptly to requests by law enforcement agencies in other States for assistance in the recovery of stolen vehicles;

(f) To study the possibility of adopting a standard world vehicle identification number system to be applied to all vehicles manufactured within or exported to Member States;

5. *Requests* the Secretary-General, within existing resources or subject to the availability of extrabudgetary resources:

(a) To elaborate a training manual for law enforcement and customs personnel on the prevention and control of trafficking in stolen and misappropriated vehicles, for use in the provision of practical assistance to requesting Member States, as well as a comprehensive training manual on vehicle identification;

(b) To develop and carry out, in States requesting technical assistance for law enforcement and customs personnel, training programmes on the recovery of stolen vehicles;

(c) To provide advisory services to requesting Member States for the elaboration or reform of pertinent legislation, as well as for the development of bilateral, multilateral and/or regional treaties in this area;

(d) To continue to conduct research on the scope, methods and organization of groups engaged in the theft of and illicit trafficking in motor vehicles;

6. *Invites* Member States and the private sector to assist the Secretary-General in undertaking the activities contained in paragraph 5 above;

7. *Recommends* that the fight against the theft of and trafficking in stolen vehicles should take into account recent progress in anti-theft and immobilizing systems, as well as other possibilities offered by new technologies;

8. *Also recommends* that authorities, vehicle manufacturers, insurance companies and equipment manufacturers should, in conjunction with the efforts made by government

authorities, further study and improve systems for identifying vehicles and spare parts, sharing their findings with the relevant law enforcement agencies;

9. *Requests* the Secretary-General to submit to the Commission on Crime Prevention and Criminal Justice at its eighth session a report on the implementation of the present resolution.

36th plenary meeting
21 July 1997

ANNEX I

Moscow Declaration

We, participants gathered at the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held at Moscow from 28 February to 2 March 1997,

1. *Endorse* the recommendations of the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996¹⁶¹ and, among the various issues emerging from the Warsaw Conference, recommend the following points for immediate action by Governments:

(a) As a first priority, to support the development of the Automated Search Facility International Stolen Vehicle Database of the International Criminal Police Organization;

(b) To establish national centralized vehicle registration systems based on a standard set of data, which includes the physical description and identifying numbers of the motor vehicle as well as details of the registered owner or keeper;

(c) To request that vehicles written off by insurers are reported to the centralized vehicle registration system or, alternatively, that authorities check with private databases that keep such records, in order to prevent the vehicle identification number of a vehicle that has been written off from being used to hide the identity of a stolen vehicle;

(d) To find appropriate means in order to ensure that, prior to registration of an imported vehicle, national authorities confirm that a vehicle has not been reported stolen in any country of prior registration, *inter alia*, using the Automated Search Facility system of the International Criminal Police Organization;

(e) To promote the adoption of a standard format for a world vehicle identification number system applying to all vehicles manufactured within the country or exported to other countries, to provide for the secure marking of identifying numbers on component parts of the vehicles, and to encourage the keeping of such records by manufacturers and the practice of making them available to relevant law enforcement agencies;

(f) To consider mandating the installation of effective security devices by manufacturers, including effective immobilizers and perimeter security;

(g) To conclude on a bilateral or multilateral basis agreements on the return of stolen vehicles, based on the

Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles, contained in annex II below;

(h) To promote better operational cooperation and exchange of information among the relevant law enforcement and other agencies at the national and international levels.

2. *Draw the attention* of the Commission on Crime Prevention and Criminal Justice to the following:

(a) The elaboration and the implementation of the technical cooperation activities to be requested of the Secretary-General, in accordance with paragraph 2 (g) of the recommendations of the Warsaw Conference; such activities should include the elaboration of a comprehensive training manual on vehicle identification;

(b) In the context of technical assistance and training, the continuation of research on the scope, methods and organization of groups engaged in vehicle theft and trafficking.

3. *Urge* States and the private sector to assist the Secretary-General in undertaking the activities referred to in paragraph 2 above.

4. *Invite* the United Nations Commission on Crime Prevention and Criminal Justice to keep this topic and the measures taken by Governments to implement the recommendations contained in the present Declaration under constant review.

ANNEX II

Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles

(The Government of [country name] and the Government of [country name],)¹⁶²

or

(The States Parties to the present Treaty,)¹⁶³

Recognizing the growing problem of the theft of and illicit trafficking in motor vehicles,

Considering the difficulties faced by innocent owners in securing the return of motor vehicles stolen or embezzled in the territory of one Party that are recovered in the territory of another Party,

Desiring to eliminate such difficulties and to regularize procedures for the expeditious return of such vehicles,

Have agreed as follows:

Article 1

For the purposes of the present Treaty:

(a) A "vehicle" shall mean any automobile, truck, bus, motorcycle, motorhome, or trailer;

(b) A vehicle shall be considered "stolen" when possession thereof has been obtained without the consent of the owner or other person legally authorized to use such motor vehicle;

(c) A vehicle shall be considered "embezzled" when:

(i) It is unlawfully converted by the person who had rented it from an enterprise legally authorized for that purpose and in the normal course of business; or

(ii) It is unlawfully converted by a person with whom it has been deposited by official or judicial action;

(d) All references to "days" shall mean calendar days.

Article 2

Each Party agrees to return, in accordance with the terms of the present Treaty, vehicles that are:

(a) Registered, titled or otherwise documented in the territory of a Party;

(b) Stolen or embezzled in the territory of a Party; and

(c) Found in the territory of a Party.

Article 3

1. Whenever police, customs or other authorities of a Party impound or seize a vehicle that they have reason to believe is registered, titled or otherwise documented in the territory of another Party, the first Party shall, within [thirty] days of such impoundment or seizure, notify, in writing, [the Embassy] of the other Party that its authorities have custody of the motor vehicle.

2. Such notification shall include all available identifying data about the vehicle of the type listed in appendix I, a description of the condition of the vehicle, the current location of the vehicle, the identity of the authority with physical custody of the vehicle and [any] information that indicates whether it was being used in connection with the commission of a crime.

Article 4

Authorities of the Party who have impounded or seized a vehicle that they have reason to believe is registered, titled or otherwise documented in the territory of another Party shall promptly take it to a storage area and shall take reasonable steps regarding the safekeeping of the vehicle. Thereafter, the said authorities shall not operate, auction, dismantle or otherwise alter or dispose of the vehicle. However, the present Treaty shall not preclude the said authorities from operating, auctioning, dismantling or otherwise altering or disposing of the vehicle if:

(a) No request for the return of the vehicle is filed within [sixty] days of the notification made pursuant to article 3 above;

(b) A determination is made in accordance with article 7, paragraph 1, below that a request for the return of the vehicle does not meet the requirements of the present Treaty

¹⁶² Applicable to bilateral agreements.

¹⁶³ Applicable to subregional or regional agreements.

and notification of such determination has been made in accordance with article 7, paragraph 3, below;

(c) The vehicle has not been retrieved within the time period stated in article 7, paragraph 2, below by the person identified in the request for return as the owner or the authorized representative of the owner after the vehicle has been made available as provided for in article 7, paragraph 2, below; or

(d) There is no obligation under the present Treaty pursuant to article 8, paragraph 2 or 3, below to return the vehicle.

Article 5

1. After receiving a notification made pursuant to article 3 above, a Party may submit a request for the return of the vehicle.

2. The request for return [shall be transmitted under seal of a consular officer of the Requesting Party and] shall follow the form shown in appendix II. A copy of the request shall be transmitted under cover of a note to the [Ministry of Foreign Affairs] of the Requested Party. A request shall be made only after receipt by the consular officer of properly notarized certified copies of the following documents:

- (a) (i) The title of ownership to the vehicle, if the vehicle is subject to titling, but, if a title is not available, a certified statement from the titling authority affirming that the motor vehicle is titled and specifying the person or entity to whom it is titled;
- (ii) The certificate of registration of the vehicle, if the vehicle is subject to registration, but, if the registration document is not available, a certified statement from the registering authority affirming that the vehicle is registered and specifying the person or entity to whom it is registered;
- (iii) The bill of sale or other documentation that establishes ownership of the vehicle, in the event the vehicle is not titled or registered;

(b) The document of transfer if, subsequent to the theft or embezzlement of the vehicle, the owner at the time of the theft or embezzlement has transferred ownership to a third party;

(c) The theft report, made within a reasonable time to a competent authority in the Requesting Party, and a translation thereof. In the event that the theft report is made after the vehicle is seized or otherwise comes into the possession of the Requested Party, the person seeking its return shall furnish a document justifying the reasons for the delay in reporting the theft and may provide any supporting documentation therefor; and

(d) In cases in which the person requesting the return of a vehicle is not the owner, a power of attorney, granted in the presence of a notary public by the owner or his or her legal representative, authorizing that person to recover the vehicle.

3. Except as noted in paragraph 2 (c) above, translations of documents need not be provided. The requirement for documentation of a theft report may be waived by authorities of the Requested Party. No further legalization or authentication of documents will be required by the Requested Party.

Article 6

If a Party learns, through means other than a notification made pursuant to article 3 above, that the authorities of another Party may have impounded, seized or otherwise taken possession of a vehicle that may be registered or otherwise documented in the territory of the first Party, that Party:

(a) May, through a note to the [Ministry of Foreign Affairs] of the other Party, seek official confirmation of this and may request the other Party to provide the notification described in article 3, in which case the other Party shall either provide the notification or explain, in writing, why notification is not required; and

(b) May also, in appropriate cases, submit a request for the return of the vehicle as described in article 5 above.

Article 7

1. Except as provided for in article 8 below, the Requested Party shall, within [thirty] days of receiving a request for the return of a stolen or embezzled vehicle, determine whether the request for return meets the requirements of the present Treaty and shall notify [the Embassy] of the Requesting Party of its determination.

2. If the Requested Party determines that the request for the return of a stolen or embezzled vehicle meets the requirements of the present Treaty, the Requested Party shall within [fifteen] days of such determination make the vehicle available to the person identified in the request for return as the owner or the authorized representative of the owner. The vehicle shall remain available for the person identified in the request for return as the owner or the authorized representative of the owner to take delivery for at least [ninety] days. The Requested Party shall take the necessary measures to permit the owner or the authorized representative of the owner to take delivery of the vehicle and return it to the territory of the Requesting Party.

3. If the Requested Party determines that the request for return does not meet the requirements of the present Treaty, it shall provide written notification to [the Embassy] of the Requesting Party.

Article 8

1. If a vehicle whose return is requested is being held in connection with a criminal investigation or prosecution, its return pursuant to the present Treaty shall be effected when its presence is no longer required for purposes of that investigation or prosecution. The Requested Party shall, however, take all practicable measures to ensure that substitute pictorial or other evidence is used wherever possible in such investigation or prosecution so that the vehicle may be returned as soon as possible.

2. If the ownership or custody of a vehicle whose return is requested is the subject of a pending judicial action in the

Requested Party, its return pursuant to the present Treaty shall be effected at the conclusion of that judicial action. However, a Party shall have no obligation under the Treaty to return the vehicle if such judicial action results in the award of the vehicle to a person other than the person identified in the request for return as the owner of the vehicle or the authorized representative of the owner.

3. A Party shall have no obligation under the present Treaty to return a vehicle whose return is requested if the vehicle is subject to forfeiture under its laws because it was used in its territory for the commission of a crime. The Requested Party shall not forfeit the vehicle without giving the owner or the authorized representative of the owner reasonable notice and an opportunity to contest such forfeiture in accordance with its laws.

4. A Party shall have no obligation under the present Treaty to return a stolen or embezzled vehicle if no request for return is made within [sixty] days of a notification made pursuant to article 3 above.

5. If the return of a stolen or embezzled vehicle whose return is requested is postponed, pursuant to paragraph 1 or 2 of the present article, the Requested Party shall so notify [the Embassy] of the Requesting Party in writing within [thirty] days of receiving a request for the return of the vehicle.

Article 9

1. The Requested Party shall not impose any import or export duties, taxes, fines or other monetary penalties or charges on vehicles returned in accordance with the present Treaty, or on their owners or authorized representatives, as a condition for the return of such vehicles.

2. Actual expenses incurred in the return of the vehicle, including towing, storage, maintenance and transportation costs, as well as the costs of translation of documents required under the present Treaty, shall be borne by the person or entity seeking its return and shall be paid prior to the return of the vehicle. The Requested Party shall use its best efforts to keep such expenses at reasonable levels.

3. In particular cases, the expenses of return may include the costs of any repairs or reconditioning of a vehicle which may have been necessary to permit the vehicle to be moved to a storage area or to maintain it in the condition in which it was found. The person or entity seeking the return of a vehicle shall not be responsible for the costs of any other work performed on the vehicle while it was in the custody of the authorities of the Requested Party.

Article 10

The mechanisms for the recovery and return of stolen or embezzled vehicles under the present Treaty shall be in addition to those available under the laws of the Requested Party. Nothing in the Treaty shall impair any rights for the recovery of stolen or embezzled vehicles under applicable law.

Article 11

1. Any differences regarding the interpretation or application of the present Treaty shall be resolved through consultations between the Parties.

2. The present Treaty shall be subject to ratification. It shall enter into force on the date of exchange of instruments of ratification.

3. The present Treaty may be terminated by either Party upon a minimum of [ninety] days' written notification.¹⁶⁴

DONE at [site], this _____ day of _____, _____, in duplicate, in the _____ and _____ languages, both texts being equally authentic.

APPENDIX I

Identifying information to be provided in a notification made pursuant to article 3 of the present Treaty

1. Vehicle identification number.
2. Name of manufacturer of vehicle.
3. Vehicle model and year of manufacture, if known.
4. Colour of vehicle.
5. Licence plate number of vehicle and jurisdiction of issuance, if available.
6. City/other jurisdiction tag or sticker number and name of city/other jurisdiction, if available.
7. A description of the condition of the vehicle, including mobility of vehicle, if known, and repairs that appear necessary.
8. The current location of the vehicle.
9. The identity of the authority having physical custody of the vehicle and a contact point, including the name, address and telephone number of the official having recovery information.
10. Any information which indicates whether the vehicle was being used in connection with the commission of a crime.
11. Any indication that the vehicle may be subject to forfeiture under the laws of the notifying State.

APPENDIX II

Request for the return of a stolen or embezzled vehicle

(The Embassy of [country name]) respectfully requests that (the appropriate authority of [country name]) return the vehicle described below to (its owner/the authorized representative of its owner) in accordance with the Treaty for the Return of Stolen or Embezzled Vehicles:

Make:
Model (year):
Type:
Vehicle identification number:
Licence plates:
Registered owner:

(The Embassy of [country name]) certifies that it has examined the following documents, which have been presented by (identity of person submitting documents) as evidence of (his or her ownership of the vehicle/ownership of the vehicle by the person for whom he or she is acting as authorized representative) and has found them to be properly certified under the laws of (appropriate jurisdiction):

¹⁶⁴ Applicable to bilateral agreements. Other suitable provisions, in accordance with international law and standard practice, would need to be inserted for subregional or regional agreements.

- (a) (Document description);
- (b) (Document description);
- (c) (Document description);
- (d) (Document description).

Complimentary close
Place and date
Attachments.