



## Executive Council

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### Report of the Secretary-General

#### Part I: Current situation and activities

##### (e) Protection of tourists/consumers and travel organizers

#### I. Introduction

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1. The present document follows the previous reports made to the 90<sup>th</sup> and 93<sup>rd</sup> sessions of the Executive Council and to the 19<sup>th</sup> session of the General Assembly on the same issue, recalling the insufficiency of existing binding rules at the global level governing the rights and obligations of tourists/consumers and tourism enterprises. It further refers to the corresponding decision, requesting that the UNWTO Secretary-General establish an ad hoc working group able “to define the scope and level of the proposed legal instrument”.

2. At its 93<sup>rd</sup> session the Executive Council required the Secretary-General and the working group to present to its next session the preliminary results achieved by the working group. The present report summarizes the activities of the working group towards the elaboration of the draft text of the international convention and focuses on the main content elements of the draft text which will be presented to the 95<sup>th</sup> session of the Executive Council in 2013.

#### II. Activities towards the adoption of an international convention on the protection of tourists and tourism service providers

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3. The main aim of the “UNWTO working group on the protection of tourists/consumers and travel organizers” is to draft an international convention dealing with the main scope elements identified by the group. The working group consists of official expert delegates from Member States of every region, representation of the tourism private sector such as IATA, AMFORT, IH&RA, UFTAA, WTAAA, ECTAA, EGFATT, HOTREC, WTTC, FIA, international organizations such as ICAO, and representatives of the European Commission.

4. It had already convened four meetings. During the first meeting of the working group in April 2011 a consensus was reached (a) on the need to elaborate a legal document which can provide both



guidelines and binding norms and (b) on its scope elements. When defining the scope, the working group agreed on addressing the following key issues, listed in order of their priority:

- (i) Providing assistance to, and ensuring the repatriation of, consumers, particularly in cases of force majeure;
- (ii) Supplying accurate and timely information to tourists including in terms of the handling of bankruptcy situations of travel organizers; and
- (iii) Focussing on issues related to accommodation.

5. At its 90<sup>th</sup> session, the Executive Council agreed with the proposed approach and invited the Secretary-General to move forward the project towards an international convention. During the second meeting held in September 2011 the working group started a detailed debate on the scope elements in order to draft the first version of the convention for its upcoming meeting. At its 19<sup>th</sup> session the General Assembly reaffirmed the initiative and took note of the preliminary work conducted leading to an international convention.

6. The third meeting of the working group was held in February 2012 on the occasion of BIT International Tourism Exchange Fair in Milan. The participants discussed the first draft text which was elaborated in accordance with the decisions of the second meeting on scope element Issue 1 and began a detailed debate on Issue 2 concerning information obligations.

7. On 9 March 2012 ITB hosted “UNWTO Session on the protection of Tourists/Consumers – accommodation related issues”. This event gave a unique opportunity for representatives of governments, private accommodation sectors and NGOs to trigger debate on accommodation scope elements of a future international convention including the rights and obligations of the accommodation providers as well as requirements of adequate information to tourists about the facilities and conditions of the accommodation.

8. During its fourth meeting held in June 2012 in Madrid the working group continued the detailed debate on the second draft text of the convention. According to the request of the working group, information obligation provisions, travel organizer’s liability and the assistance obligations of the States Parties in case of force majeure should be revised for the next meeting. With the consent of the related stakeholders’ organizations the accommodation related provisions will mainly focus on information obligations in accordance with the existing regional and global regulatory frameworks.

9. Besides the draft of the convention, the UNWTO Secretariat elaborated the following related working documents which had been debated during the meetings of the working group:

- (a) Working document of assistance and repatriation of tourists/consumers in case of force majeure
- (b) Survey by questionnaire on tourist/consumer protection
- (c) Working document on information obligations
- (d) Preliminary results of the survey on tourist/consumer protection
- (e) Working document on ranking information elements
- (f) Working document on accommodation issues

- (g) Working document on the evaluation of assistance obligations and responsibilities in case of force majeure

10. The working group will meet again on the occasion of the World Travel Market in London (7 November, 2012).

### **III. Content elements of the draft convention**

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11. The General part of the draft convention on the protection of tourists and tourism service providers introduces the general principles, the scope elements, the main definitions (such as tourist, tourism service provider) and the necessary international law related provisions (amendment rules, entry into force, reservations, signature, ratification rules, deposit etc.). Following the legal structure of the existing ICAO conventions the Annexes of the convention will include standards as binding rules and recommended practices as non-binding rules. UNWTO reiterates its intention of not infringing on existing legal structures, either at the global or regional levels. On the subject of air transport, ICAO and IATA expressed their willingness to cooperate closely with UNWTO.

12. Annex I of the draft convention contains the assistance obligations of States Parties in force majeure situations indicating clear distinction from private sector obligations (Annex II). It introduces definitions for force majeure, host country and country of origin. It sets out the cooperation obligation between the host country and the country of origin of the tourist in case of force majeure and identifies the main important assistance elements which are required in such cases. Furthermore, certain provisions on providing available information on related national bodies responsible for such cases, on the facilitation of incoming staff's entrance, on set-up of professional crisis management teams and on airport helpdesk services are added as best practices which should be followed by the States Parties.

13. Annex II deals with package travel issues in detail. It includes force majeure situations, when tourists need care and assistance but tourism service providers are neither liable for such cases (assistance obligation). In accordance with the existing regulatory frameworks minimum liability rules for non-performance and improper performance are inserted. A separate chapter deals with the minimum information which should be provided to the tourists before the conclusion of the package travel contract and the minimum content elements of the contract as well. Finally, in case of the insolvency of the service providers minimum rules are established for the protection of tourists (financial security).

14. With the consent of the related stakeholders' organizations Annex III on accommodation related provisions focuses on mainly information obligations in accordance with the existing regional and global regulatory frameworks.

15. In accordance with the decision of the Executive Council during its last session the first draft text of the international convention should be submitted to the 95<sup>th</sup> session in 2013.

### **IV. Others**

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16. During its second meeting (28 September 2012, Madrid, Spain) the working group agreed on the proposal of the UNWTO Secretariat on a survey by questionnaire on tourists/consumers protection. The main aims of this survey are to collect updated information on the existing tourist protection measures and practices among Member States, as well as to compile national legislation in this field. The first outcomes of the questionnaire in last October were already introduced to the working group. In

accordance with the decision of the UNWTO Executive Council the UNWTO Secretariat aims to produce and disseminate on the basis of the outcomes of the questionnaire an international Practical Guide addressed to tourists and tourism service providers with the most relevant information for their protection.

17. The World Committee on Tourism Ethics as the body responsible for promoting and monitoring the implementation of the UNWTO Global Code of Ethics for Tourism during its eleventh meeting (Rome, Italy, 12-13 July) reiterated its support for UNWTO's preparation of an international legal instrument on the protection of tourists/consumers and tourism enterprises.

18. UNWTO continues to cooperate with ICAO and other international organizations (e.g., European Union) in order to avoid inconsistencies and possible duplication of efforts, as well as to minimize conflict in related rules and regulations. In this framework, UNWTO was represented at the latest Member States' meeting and stakeholders' conference in June 2012 on the revision of the Package Travel Directive which was organized by the European Commission and aimed at discussing certain key issues in relation to the upcoming proposal for the revised Directive. A consumer protection item will be on the agenda of the Sixth Worldwide Air Transport Conference organized by ICAO in March 2013 where UNWTO will be present in order to introduce the latest activities in this field and discuss the common key issues.

## **V. Actions to be taken by the Executive Council**

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19. The Executive Council is requested:

- (a) To take note of the present report;
- (b) To confirm its former request of its 93<sup>rd</sup> session for the submission of the first draft text of the international convention on the protection of tourists and tourism service providers to the 95<sup>th</sup> session in 2013.