

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

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Agenda item 2

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

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Proposal submitted by Australia and New Zealand

I. Background

1. Australia and New Zealand are generally supportive of the proposal that a multi-year programme of work be established. They regard it as a way in which the work of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime can be structured to produce the most effective results. They also agree that the programme of work could be divided along thematic lines. It seems to them, however, that it could be useful to reorganize the programme of work suggested in paragraphs 6, 9 and 12 of the note by the Secretariat of 29 June 2004 (CTOC/COP/2004/L.5).

2. That would reflect the process of establishing a framework to fight transnational organized crime—the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) and its Protocols and domestic law—and the implementation of that framework—the activities carried out by States to fight crime. The “framework-and-implementation” process reflects the successful approach taken in recent years by the Working Group on Bribery in International Business Transactions of the Organisation for Economic Cooperation and Development.

3. The experience that emerged from the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime was that the most effective and worthwhile meetings and workshops were those attended by practitioners at the operational level rather than exclusively by diplomats. Countries were best able to



share experience and focus closely on practical matters when those participating had first-hand experience in the subject areas being discussed.

II. Structure of the programme of work

4. For the programme of work for the Conference of the Parties, there would be benefit in dividing the work of the first three sessions into three broad categories under two major headings:

(a) *Framework to fight transnational organized crime*. Criminalization and other legal measures (for lawyers, legislators, preventive agencies etc.);

(b) *Implementation*

(i) Investigation phase/pre-trial phase (for police, immigration services etc.);

(ii) Prosecution/trial and post-trial phase (for prosecutors, victim reintegration agencies etc.).

5. The important area of technical assistance would be discussed at each session, with particular focus on technical assistance on particular items being discussed at each session. For example, at the second session, discussion of technical assistance would focus on the best way to provide technical assistance on criminalization. This would not preclude a more general discussion about all technical assistance issues, which could be discussed at every session. It would simply help focus the specific discussion of technical assistance to reflect the work plan.

6. The present proposal would ensure that delegations could include appropriate experts and practitioners for each thematic area such that sessions would be focused on achieving practical outcomes in the fight against organized crime; that expertise could be shared directly between practitioners; and that direct country-to-country linkages could be made between, for example, police representatives, prosecutors or immigration officials.

7. It would also ensure that the focus of the work of the Conference was on achieving a practical outcome and sharing expertise rather than on reviewing previous work. It would give the Conference a forward-looking agenda and make it a forum for information-sharing and technical assistance.

III. Proposed programme of work

8. The following work programme is therefore proposed for the next three sessions of the Conference, with the subjects fitting logically together to facilitate effective discussion by practical experts:

(a) *Framework to fight transnational organized crime*

Criminalization and other legal matters

Second session (2005). Consideration of the implementation of the following articles: 5 (Criminalization of participation in an organized criminal group), 6 (Criminalization of the laundering of the proceeds of crime), 7 (Measures to

combat money-laundering), 8 (Criminalization of corruption), 9 (Measures against corruption), 10 (Liability of legal persons) and 23 (Criminalization of obstruction of justice);

(b) *Implementation*

(i) *Investigation phase/pre-trial phase*

Third session (2006). Consideration of the implementation of the following articles: 19 (Joint investigations), 20 (Special investigative techniques), 24 (Protection of witnesses), 25 (Assistance to and protection of witnesses), 26 (Measures to enhance cooperation with law enforcement authorities) and 27 (Law enforcement cooperation);

(ii) *Prosecution/trial and post-trial phase*

Fourth session (2008). Consideration of the implementation of the following articles: 11 (Prosecution, adjudication and sanctions), 12 (Confiscation and seizure), 15 (Jurisdiction), 16 (Extradition), 17 (Transfer of sentenced persons), 18 (Mutual legal assistance), 21 (Transfer of criminal proceedings) and 22 (Establishment of criminal record).

9. Similarly, work on the two Protocols already in force could be restructured to ensure that it reflected the discussions on the Convention, allowing relevant experts to participate at the same time.

10. Work on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (General Assembly resolution 55/25, annex II), could be reorganized as follows:

(a) *Framework to fight transnational organized crime*

Criminalization and other legal matters

Second session (2005). Consideration of the implementation of the following articles: 3 (Use of terms), 5 (Criminalization) and 9 (Prevention of trafficking in persons);

(b) *Implementation*

(i) *Investigation phase/pre-trial phase*

Third session (2006). Consideration of the implementation of the following articles: 6 (Assistance to and protection of victims of trafficking in persons), 10 (Information exchange and training), 11 (Border measures), 12 (Security and control of documents) and 13 (Legitimacy and validity of documents);

(ii) *Prosecution/trial and post-trial phase*

Fourth session (2008). Consideration of the implementation of the following articles: 7 (Status of victims of trafficking in persons in receiving States) and 8 (Repatriation of victims of trafficking in persons).

11. Work on the Protocol against the Smuggling of Migrants by Land, Sea and Air (General Assembly resolution 55/25, annex III) could be reorganized as follows:

(a) *Framework to fight transnational organized crime*

Criminalization and other legal matters

Second session (2005). Consideration of the implementation of the following articles: 3 (Use of terms), 5 (Criminal liability of migrants), 6 (Criminalization), 8 (Measures against the smuggling of migrants by sea) and possibly 15 (Other prevention measures);

(b) *Implementation*

(i) *Investigation/pre-trial phase*

Third session (2006). Consideration of the implementation of the following articles: 7 (Cooperation), 10 (Information), 11 (Border measures), 12 (Security and control of documents), 13 (Legitimacy and validity of documents), 14 (Training and technical cooperation) and possibly 15 (Other prevention measures);

(ii) *Prosecution/trial and post-trial phase*

Fourth session (2008). Consideration of the implementation of the following articles: 16 (Protection and assistance measures), 17 (Agreements and arrangements) and 18 (Return of smuggled migrants).
