



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

Distr.: General  
2 August 2010

Original: English

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## **Fifth session**

Vienna, 18-22 October 2010

Items 2 (a) and 3 of the provisional agenda\*

**Review of the implementation of the United Nations  
Convention against Transnational Organized Crime and  
the Protocols thereto: United Nations Convention against  
Transnational Organized Crime**

**Consideration of possible mechanisms to review  
implementation of the United Nations Convention against  
Transnational Organized Crime and the Protocols thereto**

## **Development of tools to gather information from States on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

### **Report of the Secretariat**

#### **I. Background**

1. As set out in article 32, paragraph 1, of the United Nations Convention against Transnational Organized Crime,<sup>1</sup> the Conference of the Parties to the United Nations Convention against Transnational Organized Crime was established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention. To that end, the Conference should acquire knowledge both of the measures taken by States parties in implementing the Convention and of the difficulties encountered by them in doing so (art. 32, para. 4). The Convention therefore stipulates that States parties are to provide the Conference with information on their programmes, plans and practices and on their legislative and administrative measures to implement the Convention (art. 32, para. 5).

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\* CTOC/COP/2010/1.

<sup>1</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.



2. The present report was prepared in response to the recommendation made at the meeting of experts on possible mechanisms to review implementation of the United Nations Convention against Transnational Organized Crime, held in Vienna on 25 and 26 January 2010 (CTOC/COP/EG.1/2010/3, para. 8 (d)).

3. At its first session, held in 2004, the Conference adopted its decision 1/2, in which it requested the Secretariat to collect information using a questionnaire to be developed in accordance with guidance provided by the Conference. The questionnaire was to be used to collect information in the context of the programme of work of the Conference, which addressed, inter alia, criminalization legislation and international cooperation. Ultimately, three questionnaires were developed: one on the Convention and one on each of the two protocols then in force (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>2</sup> and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime<sup>3</sup>). In its decision 2/1, adopted at its second session, held in 2005, the Conference broadened its programme of work to include a second set of topics, including the investigation of cases of transnational organized crime, matters related to law enforcement cooperation, assistance to and protection of victims and witnesses and criminalization legislation concerning 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.<sup>4</sup> In line with this expanded mandate, four additional questionnaires were developed, three covering the instruments used in the first reporting cycle and one covering the Firearms Protocol. All the questionnaires have been made available on the UNODC website ([www.unodc.org/unodc/en/treaties/CTOC/questionnaires.html](http://www.unodc.org/unodc/en/treaties/CTOC/questionnaires.html)).

4. Drawing on information-gathering methods developed to support reporting under the United Nations Convention against Corruption,<sup>5</sup> the Open-ended Interim Working Group of Government Experts on Technical Assistance requested UNODC to develop an efficient and user-friendly information-gathering tool in the form of an interim computer-based checklist (CTOC/COP/2008/7). The objective was to take advantage of modern information and communications technologies and to simplify reporting obligations under the Organized Crime Convention. The self-assessment checklist was finalized in three languages (English, French and Spanish) in May 2008 and subsequently distributed to States parties and signatories.<sup>6</sup>

5. Given the similarity of the information-gathering mandates emanating from the Conference of the Parties to the Organized Crime Convention and the Conference of the States Parties to the United Nations Convention against Corruption, it was decided to explore the development of a comprehensive

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<sup>2</sup> Ibid., vol. 2237, No. 39574.

<sup>3</sup> Ibid., vol. 2241, No. 39574.

<sup>4</sup> Ibid., vol. 2326, No. 39574.

<sup>5</sup> Ibid., vol. 2349, No. 42146.

<sup>6</sup> The self-assessment checklist was made available through the UNODC website ([www.unodc.org/unodc/en/treaties/assessment-list.html](http://www.unodc.org/unodc/en/treaties/assessment-list.html)).

self-assessment checklist that would cover both conventions. Initial assessments highlighted the similarities between a number of provisions of the two instruments and showed that it was likely that information gathered on the implementation of those provisions would lend itself to reporting on both conventions simultaneously. Accordingly, an elaborate and comprehensive self-assessment software programme (the “omnibus survey”) for fulfilling the reporting requirements under the Convention against Corruption and the Organized Crime Convention and its Protocols, was created. In its decision 4/1, the Conference of the Parties took note with satisfaction of the information-gathering efforts of the United Nations Office on Drugs and Crime (UNODC) to develop a computer-based self-assessment tool.

6. The portion of the software relating to the Convention against Corruption was finalized and endorsed at the third session of the Conference of the States Parties, held in Doha from 9 to 13 November 2009.

7. The present report contains updated information on the development of the omnibus survey and efforts made to adapt the survey to the specificities of the Organized Crime Convention and its Protocols. It also contains information about the implementation of relevant recommendations formulated at the meeting of experts on possible mechanisms to review implementation of the Organized Crime Convention.

## **II. Development of and adjustments to the omnibus survey**

### **A. Objectives and features of the omnibus survey**

8. The omnibus survey was conceived as an efficient, interactive and user-friendly software that would make it easier for States to fulfil their reporting obligations under the Organized Crime Convention and its Protocols and the Convention against Corruption. Designed as a self-assessment checklist, the software enables States parties to assess national legislation for compliance with the above-mentioned instruments, identify technical and legal assistance needs and share best practices. The software can be downloaded from the UNODC website ([www.unodc.org/unodc/en/legal-tools/software-omnibus.html](http://www.unodc.org/unodc/en/legal-tools/software-omnibus.html)).

9. The omnibus survey allows respondents to navigate through several pages for each provision under review. The first page contains the text of the provision. Definitions of specific terms are provided through links to the related portions of the legislative guides. Respondents are asked a series of questions on each provision, beginning with whether the provision has been implemented. Depending on how they answer, respondents are guided through several other questions. In cases where laws or measures have been adopted in relation to the provision under review, respondents are given the opportunity to provide information, such as excerpts of the relevant national legislation, and examples of cases when the provisions have been implemented successfully.

10. If the laws or measures adopted by States cover only partially the scope of the provision under review or if no relevant law or measure has been adopted, the survey allows respondents to explain the difficulties encountered in implementation and invites them to indicate the steps they plan to take, within a set time frame, to overcome those difficulties. Respondents can select the kinds of legal and technical

assistance needed by their Governments from a list of activities covering the most common challenges to implementation. The omnibus survey will therefore enable the Conference to receive information on gaps in implementation and technical assistance needs; addressing those gaps and needs would result in States' improved compliance with the provisions of the Organized Crime Convention and its Protocols.

11. The omnibus survey includes a feature that allows States to respond to questions on the basis of template answers. In addition to saving respondents' time, this feature provides greater homogeneity in the format of the answers, thus facilitating their analysis. The survey also includes a cross-referencing tool that alerts respondents when information on the provisions of the Convention against Corruption and the Organized Crime Convention and its Protocols might already have been collected under the reporting scheme of another treaty and could be utilized to complete the self-assessment reports for UNODC. The survey contains cross-references to 67 crime-related and six corruption-related international instruments not within the purview of UNODC.

12. All information entered in the survey can be modified and saved easily. Recognizing that different agencies provide information on the issues covered, the survey allows for several persons to work on different parts and for their answers to be collated at a later stage. The report produced through the software can be saved as a file and sent by e-mail. Once self-assessment reports are received by UNODC, the information is entered into an electronic database, making the whole reporting and submission process much easier for the respondent.

## **B. Consultation process and adjustments made to reflect the specificities of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

13. To ensure the validity of the approach and methodology adopted in the development of the omnibus survey, UNODC undertook a broad consultation process. The features of the survey and elements related to the Convention against Corruption were reviewed by international experts on three occasions between March 2008 and September 2009. In March 2009, UNODC invited States to test the application on a voluntary basis. Thirty-seven States responded to the call and tested the software between March and June 2009.

14. A team of UNODC staff worked within existing resources to adjust the survey to the specificities of the Organized Crime Convention and its Protocols, as requested at the meeting of experts on possible mechanisms to review implementation of the Convention (CTOC/COP/EG.1/2010/3). In particular, the team redrafted certain questions and inserted new questions to elicit the desired information. The team also tailored the list of technical assistance needs relevant to each provision and inserted a title above each paragraph and subparagraph under review to facilitate navigation. All changes were made with due regard to preserving coherence with those parts of the application already endorsed by the Conference of the States Parties to the Convention against Corruption.

15. In July 2010, States were invited to provide comments on the revised version of the omnibus survey on the Organized Crime Convention and its Protocols. As with the review by the Conference of the States Parties, the original English version

of the software was used during the period of consultation with States. The software will be translated into the other official languages of the United Nations after it has been approved by the Conference of the Parties. It is expected that the final version of the omnibus survey will be available in the six official languages by mid-2011.

### **C. Promotional activities**

16. A side event was organized during the nineteenth session of the Commission on Crime Prevention and Criminal Justice, held in Vienna from 17 to 21 May 2010, in order to provide participants with the opportunity to familiarize themselves with the software, in particular with those aspects relating to the Organized Crime Convention and its Protocols. A similar event was held during the meeting of the Working Group on Trafficking in Persons held in Vienna from 27 to 29 January 2010. Those side events provided UNODC experts with the opportunity to speak with representatives of Member States that had not fulfilled their reporting obligations. Participants showed great enthusiasm for the survey, recognizing its potential usefulness for States carrying out self-assessments of progress made in implementing the Organized Crime Convention and its Protocols. Despite providing positive feedback, several delegations highlighted that their ability to report on self-assessments was hampered by insufficient capacity in terms of information collection and personnel. Insufficient inter-agency cooperation at the national level was also underscored.

## **III. Conclusion and recommendations**

17. At the meeting of experts on possible mechanisms to review implementation of the Organized Crime Convention, it was decided that the information provided by States through the checklist and the omnibus survey should be the basis of any future review mechanism (CTOC/COP/EG.1/2010/3, para. 6). To this end, the Conference may wish to request States to provide updates on implementation of the Organized Crime Convention and its Protocols using the omnibus survey. The questionnaires previously completed by States could provide a useful basis for the update. To facilitate the process, the secretariat could forward questionnaires previously received from States to permanent missions, at their request. Should the Conference endorse the omnibus survey, States parties to the Convention will be able to use it immediately in its English version.

18. Reporting on implementation remains a burden for a number of States that lack sufficient human, administrative or technical capacities, as highlighted by many respondents to the questionnaires and checklists and by the national experts attending the side events at which the omnibus survey was presented. The Conference may wish to request that adequate human resources be made available to the secretariat to provide States with assistance in preparing self-assessment reports, particularly with the launch of the omnibus survey. The availability of such resources would ensure further progress by States in achieving compliance with their reporting obligations and enable the Conference to have more complete information on which to base a review of the implementation of the Convention and its Protocols.