



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

Distr.: Limited  
4 October 2007

Original: English

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## Open-ended Interim Working Group of Government Experts on Technical Assistance

Vienna, 3-5 October 2007

### Draft report

#### Addendum

### III. Proposals of the Secretariat for technical assistance activities designed to meet needs identified in priority areas

29. During the discussion on agenda item 2, speakers noted that ratification of or accession to the Organized Crime Convention and its Protocols was a primary consideration in terms of technical assistance. Technical assistance had been provided for the ratification of or accession to those instruments, mainly through pre-ratification seminars. That was viewed as the first step of a continuum leading to the incorporation of the provisions of those instruments into national legal systems. The criminalization of the offences covered by the Convention and its Protocols was noted as a crucial element in order for States to be able to engage in international legal cooperation, in view of the dual criminality requirement. One speaker stressed the need to consider the Convention and its Protocols in their entirety, implementing the provisions on criminalization of offences together with the provisions on taking measures to provide assistance for victims and witnesses. Speakers emphasized the need to adopt a balanced approach to strengthening criminal justice responses when considering the priorities identified by the Conference and such cross-cutting areas as witness protection, while responding to identified needs in emerging fields such as cybercrime.

30. Speakers noted the usefulness of the legislative assistance provided by UNODC for the implementation of the Organized Crime Convention and its Protocols. In the area of legislative assistance, the Secretariat took into careful consideration the increase in calls for model legislation and noted that such model legislation needed to be specific and focused, in order to be readily adaptable to different national legal contexts. It was also noted that in that area there might be areas of synergy with the Convention against Corruption. One speaker referred in that regard to model legislation on civil forfeiture.



31. Speakers noted that, in addition to legislative development, there was a crucial need for building the capacity of and providing support for institutions and central authorities. Training and mentoring were particularly important for the implementation of the Organized Crime Convention and its Protocols, and technical assistance for capacity-building was conducive to such implementation. In particular, central authorities for mutual legal assistance and extradition needed to be adequately trained to ensure successful reliance on the Convention by States seeking to investigate and prosecute offences related to organized crime.

32. The Secretary briefed the Working Group on the work of UNODC in the area of witness protection. Regional workshops had been held for the purpose of drafting good practices and guidelines for witness protection, which were to be published in 2007. UNODC had also held an expert group meeting that had developed a model witness protection law for Latin American States in cooperation with the Public Prosecutor's Office of Chile and the Ibero-American Association of Public Prosecutors. In addition, UNODC was planning to hold a separate expert group meeting to develop a model relocation agreement for use in witness protection programmes. Needs assessments had been conducted and technical assistance in legislative development had been provided in Honduras and technical assistance for capacity-building had been provided in Georgia, Guatemala and Panama.

33. On a more general level, speakers noted the importance of tailoring technical assistance activities in the different regions to the needs expressed with regard to criminal justice systems and stressed the need to avoid situations where technical assistance providers were working in a compartmentalized manner and duplicating effort. In that respect, it was suggested that national or even regional action plans could be formulated for States requesting technical assistance. It was noted that economies of scale could be achieved by identifying common activities, for example in the area of confiscation, involving both criminalization and international cooperation aspects.

34. The Working Group then turned its attention to proposals on technical assistance activities relating to international cooperation and the strengthening of central authorities responsible for mutual legal assistance and extradition. The Secretary recalled the mandate under decision 3/2 of the Conference to implement the international cooperation provisions of the Organized Crime Convention. The Secretariat had been requested to organize regional workshops for central and other competent authorities to facilitate exchanges among counterparts and promote mutual legal assistance and extradition. A steering committee consisting of practitioners and experts in international legal cooperation had been formed to guide and assist the Secretariat in that task and had held two meetings, in June and October 2007. The conclusions of those meetings were distributed to the Working Group.

35. A workshop had been held in Bogota in conjunction with a meeting of central authorities organized by the Organization of American States, and would be followed in 2007 by other regional workshops, to be held in Egypt and Malaysia. The Working Group expressed appreciation for the progress made in providing technical assistance in the area of international legal cooperation. Speakers recommended that the regional workshop organized in Latin America should be followed by similar initiatives in other regions. One speaker announced the decision of his Government to provide funding for the organization in 2008 of a workshop in

the African region. Speakers emphasized the usefulness of the Organized Crime Convention as a basis for requesting and granting mutual legal assistance and extradition and the need to disseminate knowledge and an awareness of its potential. One speaker provided details on the successful use in his country of the international cooperation provisions of the Convention in mutual legal assistance and extradition procedures. The speaker noted that using the Convention as a legal basis broadened the range of offences that could be included in requests. In that connection, he stressed the importance of providing adequate training and updating of central authorities.

36. The issue was raised of the relationship between the two working groups established by the Conference: the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance. Care should be taken so that those two bodies did not duplicate or interfere with each other's work. It was noted that the Working Group on International Cooperation would not meet before the fourth session of the Conference, to be held in 2008, at which point it would receive a report on relevant initiatives carried out by the Secretariat. In view of the fact that international legal cooperation and the strengthening of central authorities were among the technical assistance priorities defined by the Conference, it was agreed that the Working Group of Government Experts on Technical Assistance also had competence to address those issues and to forward to the Conference recommendations on relevant technical assistance activities.

37. The Secretary briefed the Working Group on the issue of building capacity to collect data on organized crime. It was pointed out that data collection and information exchange were addressed in articles 27-29 of the Convention, in particular with regard to building capacity for data collection to enable law enforcement authorities to adequately perform their functions. The need to build capacity in that area was also expressed by States in their responses to the questionnaires.

38. The Secretary recalled that the need for information also applied to incidents involving so-called conventional crime, as it was necessary to assess whether those incidents also involved organized crime. There was a need to establish systems for the identification of crime incidents and reports to check whether crimes committed might be related to organized crime. There was also a need to disseminate good practices in identifying markers indicating the presence of organized crime. It was pointed out that the information acquired did not include sensitive information such as national intelligence. The overall objective was to build the capacity of States to acquire knowledge that would enable them to assess trends and problems.

39. Speakers noted the importance of sharing analytical expertise and of providing assistance to set up systems for effectively collecting data. Some of the obstacles to effective data collection were described. Some speakers expressed concern about the feasibility of an overly ambitious attempt to gather, analyse and disseminate information on international criminal activities. Other speakers stressed that it was nevertheless necessary to gather such information. Some speakers noted that data on organized crime could be gathered from regional sources, as well as from international sources. In that connection, there was recognition of the usefulness of the experiences of European States with Europol and Eurojust in data collection and statistical analysis. One of the objectives of such data collection systems was to make it possible to assess the situation with regard to organized crime.

40. With regard to assistance for the implementation of the Protocols, speakers expressed their general support for the relevant proposals on technical assistance contained in the background paper prepared by the Secretariat (CTOC/COP/WG.2/2007/2).

41. With regard to the Trafficking in Persons Protocol, there was agreement on the importance of legislative assistance in drafting or revising national legislation on the implementation of the provisions of the Protocol, particularly the provisions on criminalization, as such legislation needed to be in place for effective prosecution and efficient international cooperation. The Secretary provided a brief overview of the activities of UNODC in that area, including the development of tools and model legislative provisions and ongoing efforts to work with parliamentarians, who were regarded as the main target group for raising awareness about legislative action and/or reform.

42. Some speakers asked for clarification regarding the relationship between the United Nations Global Initiative to Fight Human Trafficking and the activities geared towards the implementation of the Trafficking in Persons Protocol. Speakers questioned the institutional implications and parameters involved, particularly the interface between the Global Initiative and the work of the Conference in reviewing the implementation of the Protocol. It was recommended that the work under the Global Initiative should take into account the proposals and guidance of the Working Group on technical assistance activities to promote the implementation of the Protocol and that the outcome of the Forum, to be held under the auspices of the Global Initiative in Vienna in February 2008, should be reported to the Conference at its fourth session, to be held in October 2008.

43. Many speakers shared the concern raised by the Secretariat regarding the relatively low priority accorded thus far to the implementation of the Migrants Protocol. It was stressed that there was a need for more publicity and activities to raise awareness concerning the Protocol, particularly its key objective to combat the smuggling of migrants by organized criminal groups. In that context, reference was made to the Euro-African Ministerial Conference on Partnership for Migration and Development, held in Rabat in July 2006.

44. One speaker, noting that the number of States parties to the Migrants Protocol was lower than the number of States parties to the Convention or the Trafficking in Persons Protocol, stressed the need for technical assistance activities aimed at helping States to ratify the Migrants Protocol.

45. Some speakers pointed out that technical assistance with regard to the Migrants Protocol should embrace a broader range of activities that would strengthen the capacity of States to implement its provisions on criminalization and ensure effective prosecution of related crime. It was strongly recommended that States amend their national legislation as soon as possible to establish the criminal offences covered by the Protocol. One speaker proposed that activities be undertaken to facilitate a comparative overview of various legal systems and the development of tracking systems to assess whether those acts had been criminalized at the national level.

46. Other speakers underlined the need to pay similar attention to the provisions of the Protocol aimed at ensuring the protection of smuggled migrants. In that

connection, reference was made to articles 5, 16 and 18 of the Migrants Protocol and the measures on protection and assistance mentioned in those articles.

47. Some speakers underscored the need to strengthen policies to prevent the smuggling of migrants and thus address the socio-economic root causes of irregular migration by developing programmes and economic cooperation at the national, regional and international levels. In that connection, reference was made to article 15, paragraph 3, of the Migrants Protocol and the relevant provision on prevention in the Convention.

48. Some speakers shared the Secretary's concern about the lower interest of Member States in the promotion of the Firearms Protocol. One speaker indicated that technical assistance activities in that area should primarily focus on issues related to the marking of firearms and the requirements for licensing or authorization systems for their export.

#### **IV. Coordination among technical assistance providers for the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

49. On the issue of coordination among technical assistance providers, concern was expressed about the inability of the Secretariat – owing to the lack of replies and information – to submit a report, pursuant to decision 3/4 of the Conference, on the outcome of its consultation process with relevant departments or agencies of the United Nations, other international organizations, regional organizations and financial institutions such as the World Bank and other multilateral development banks. It was felt that the availability of such a report would have facilitated the discussion.

50. The observers for some organizations described a number of cooperation activities carried out with UNODC on issues related to the Convention. The observer for the Organization for Security and Cooperation in Europe (OSCE) emphasized the interest of OSCE in supporting the implementation of activities against organized crime and described the fruitful collaboration with UNODC in that regard. Particular reference was made to the positive outcome of a joint workshop organized in 2006 to promote higher reporting levels among OSCE member States and to the participation of OSCE in the UNODC steering committee on international cooperation. In that context, the observer reiterated the commitment of OSCE to furthering such collaboration and announced the organization of a forthcoming police expert meeting that would benefit from the expertise of UNODC. The observer also announced the interest of OSCE in hosting together with UNODC a workshop in 2008 on international cooperation for OSCE member States. The workshop would be co-sponsored by the delegations of Belgium and Norway to OSCE.

51. The observer for the European Commission provided information on the significant resources invested by that organization in support of activities dealing with issues related to the Convention and its Protocols, in the form of internal support to its member States and external support to third countries, and in such other domains as stability, security and development. It was noted that many of the

activities relating to organized crime appeared in the most disparate projects and did not explicitly refer to the implementation of those instruments. It was also noted that at times the beneficiaries and the staff responsible for the delivery of technical assistance had little knowledge of the instruments. It was underlined that, while there had been some change in that respect in recent times, UNODC should provide more information and promote training on the Convention and its Protocols. In particular, UNODC should work with other international organizations and establish linkages in order to share experiences and provide information on priorities.

52. One representative noted that coordination among technical assistance providers needed to address both the need to have a complete picture of the assistance that was being provided – or could be provided – by international, regional, multilateral or bilateral donors in a given country and the need to know what the technical assistance requirements of that country were. Moreover, as it was often the case that different actors and institutions were implementing different activities related to organized crime, there was a need to seek clarity on those activities and look for areas of synergy among all actors. To that end, a round table for technical assistance providers should be organized during the fourth session of the Conference. Another representative stressed the importance of mapping technical assistance needs and activities in order to develop subregional programmes and projects and exploit the comparative advantage of similar needs and legal systems.

53. Many speakers recognized the complexity of technical assistance on organized crime issues and the fact that often such assistance was not labelled as such and did not refer clearly to the implementation of the Convention. It was noted that it was important to achieve coordination at all levels – national, regional and global. Reference was made to the crucial role of focal points and diplomatic channels in communicating and disseminating the priorities established by the Working Group, thereby further rationalizing the coordination of technical assistance.

54. Several representatives commended the interregional approach taken by the steering committee on international cooperation as an example of multilateral technical assistance, and the representatives of a number of donor States reiterated their Governments' interest in supporting those initiatives.

55. Several representatives reiterated the role of the Secretariat as the focal point, gathering all the relevant information on technical assistance service providers and reporting to the Conference, while at the same time underscoring the responsibility of States and organizations to provide such information.

56. The Secretary clarified that the mandate of the Conference was to agree on mechanisms for cooperating with relevant regional and other organizations, while at the same time stressing the primary responsibility of States parties to coordinate with each other and to ensure, as members of different relevant international organizations and governing bodies, that the efforts undertaken by the Secretariat to reach out to other organizations were met by an equal effort from the other side to respond to those initiatives.

57. Some speakers highlighted the responsibility of recipient States to promote the exchange of information and coordination at the national level, in order to avoid duplication of effort and the overlapping of activities. It was suggested that the Convention should be mainstreamed into information-sharing and coordination

efforts at the national level through in-country coordination groups and the sharing of best practices. It was also suggested that the support of UNODC would enhance the added value of such an exercise.

58. Participants agreed on the relevance of ensuring the quantity and, more importantly, the quality of technical assistance coordination and recommended that such coordination should take into account issues such as consistency, coherence, delivery of quality and accuracy and consideration of the impact of the technical assistance provided. There was general recognition that coordination among technical assistance providers should go beyond the project level and include evaluations of the outcome and impact of such assistance, in order to identify the lessons learned and improve the delivery of assistance.

## **V. Consideration of the possibility of determining performance indicators for technical assistance and the best way to identify lessons learned from the provision of technical assistance, with a view to developing best practices**

59. The Secretary informed the Working Group of the efforts made by UNODC to institutionalize result-based management, in particular in the context of the adoption of the strategy for the period 2008-2011 for UNODC. The strategy was intended as an integrated platform for the fight against crime, drugs and terrorism, providing tools and structures for measuring results and facilitating the alignment of results with resources.

60. Speakers commended UNODC for its efforts and encouraged it to continue to pursue the result-based approach to management. It was noted that technical assistance providers should embrace result-based tools in as much as they provided a basis for action and enabled coordination and evaluation. Proper use of those tools could lead to enhanced understanding of the needs of recipient States and early identification of obstacles or shortcomings in technical assistance projects. One speaker pointed out that the self-assessment approach adopted with regard to the Convention against Corruption already enabled States to identify their needs for technical assistance. The use of performance indicators was viewed as accentuating a more qualitative approach to the assessment and evaluation of technical assistance activities.

61. While it was noted that performance indicators and result-based management were important tools for designing effective, efficient and meaningful technical assistance programmes, it was also understood that the overall purpose was to make technical assistance programmes more responsive to the needs identified by recipient States. In that regard, it was necessary to strike a balance between assessing the delivery of technical assistance from the viewpoint of the project and from that of the recipient State. That would also make it possible to identify good practices with regard to the identification of technical assistance needs and the corresponding design of technical assistance projects.

## **VI. Mobilization of resources**

62. The Working Group recognized the pivotal role played by UNODC in mobilizing resources to support technical assistance activities aimed at the effective implementation of the Convention and its Protocols. The Working Group was of the view that the identification of specific technical assistance needs, including at the field level, and the development of activities tailored to meet those needs were prerequisites to mobilizing resources for funding purposes. Moreover, it was argued that, in order to achieve better results in mobilizing resources, it was necessary to raise awareness of the provisions and importance of the Convention and its Protocols and demonstrate that the envisaged technical assistance activities were geared towards fostering the achievement of the objectives of those instruments.

63. Particular emphasis was placed on the need to ensure that the Secretariat was provided with a basic level of sustainable and predictable funding through regular voluntary contributions in order to support the planning and design of technical assistance activities. In any case, it was deemed essential to establish clear priorities for the mobilization of additional funds.

64. It was suggested that partnerships with the private sector, including with such entities as banks and other financial institutions, should be actively pursued, coupled however with efforts to avoid potential conflicts of interest and to ensure that responsibility for setting the agenda remained with the Conference.

## **VII. Effectiveness and future of the Open-ended Interim Working Group of Government Experts on Technical Assistance**

[...]

## **VIII. Other matters**

[...]

## **IX. Recommendations**

### **A. Proposals for technical assistance activities designed to meet the needs identified in the priority areas determined by the Conference**

#### **1. Gathering information on the implementation of the Organized Crime Convention**

65. The Working Group recommended that the Secretariat should:

(a) Develop an efficient and user-friendly information-gathering tool in the form of an interim computer-based checklist;



(b) Ensure that the checklist is compatible with the questionnaires instituted by the Conference under the two reporting cycles in order to avoid duplication of effort for States that have already reported through the questionnaires;

(c) Begin development of comprehensive software-based information-gathering tools for the Convention and each of its Protocols, accompanied by a guide for respondents to facilitate the use of the tools.

## **2. Strengthening criminal justice responses to organized crime based on the Organized Crime Convention and the Protocols thereto**

66. The Working Group recommended that the Secretariat should submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas:

(a) Providing of legal expertise and legislative assistance in key areas of the Convention and its Protocols and developing focused model legislation in such areas as appropriate;

(b) Developing legislative tools and training material to build the capacity of the criminal justice system;

(c) Building capacity in witness protection procedure and practice;

(d) Building capacity in procedure and practice of joint investigations.

## **3. International cooperation and establishment or strengthening of central authorities for mutual legal assistance and extradition**

67. The Working Group recommended that the Secretariat should continue its current activities to promote international legal cooperation and should submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas:

(a) Providing legal expertise and legislative assistance to States in the implementation of the international cooperation provisions of the Convention;

(b) Building the capacity of central and other competent authorities and enhancing working relationships with and among them, in particular through the organization of regional and interregional workshops;

(c) Developing legislative and training tools and materials in the area of international legal cooperation.

## **4. Data collection**

68. The Working Group recommended that the Secretariat should submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas:

(a) Building the capacity of law enforcement authorities to collect and analyse crime data;

(b) Building the capacity of States to manage knowledge on crime trends and threat assessments, bridging gaps in the coverage of existing data collection and analysis systems.

## **5. Implementation of the Protocols to the Organized Crime Convention**

69. The Working Group recommended that the Secretariat should submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas:

(a) Providing assistance for the ratification of and accession to the Protocols to the Organized Crime Convention;

(b) Providing legislative and capacity-building assistance for the implementation of the Protocols, in particular providing legislative assistance to address, in a balanced manner, interrelated issues, such as those covered by the Migrants Protocol, including the issues of criminalization, protection of smuggled migrants and return of migrants.

## **B. Coordination among technical assistance providers**

70. The Working Group recommended that the Conference, at its fourth session, should give thorough consideration to the issue of coordination and ways to obtain a global picture of the technical assistance provided and the outcome of that assistance.

71. The Working Group recommended that the Secretariat should organize, during the fourth session of the Conference, a round table for the technical assistance providers represented at the session to facilitate both the exchange of information on technical assistance being provided and closer coordination in the delivery of such assistance.

72. The Working Group recommended that States parties, in their capacity as members of international and regional organizations providing technical assistance to fight transnational organized crime, should relay to those organizations the need to coordinate with the Conference and its secretariat.

73. The Working Group recommended that States should pursue coordination at the national and regional levels, in particular through the focal points and diplomatic channels, including the communication of priorities and needs identified by the Conference.

74. The Working Group recommended that UNODC should work with other organizations to share experiences and provide information on established priorities.

## **C. Determination of performance indicators**

75. The Working Group recommended that the Conference should consider the use of assessment and evaluation tools such as result-based management and performance indicators in the delivery of technical assistance.

## **D. Mobilization of resources**

76. The Working Group recommended that every effort should be made to ensure a basic level of sustainable and predictable funding through voluntary contributions

to the Secretariat to enable it to plan, design and support technical assistance activities for the implementation of the Convention and the Protocols thereto.

## **X. Adoption of the report**

77. On 5 October, the Working Group adopted the report on its second meeting (CAC/COSP/WG.2/2007/L.1 and Add.[...]).

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