Open-ended intergovernmental working group
on the review of the implementation of the
United Nations Convention against
Transnational Organized Crime and the
Protocols thereto
Vienna, 23-27 January 2012
Item 3 of the provisional agenda
Terms of reference for such proposed review mechanism
or mechanisms, guidelines for governmental experts and a
blueprint for the country review reports

Proposal regarding the Allocation of Articles — First Cycle

Non-paper by Canada

1. Introduction

The purpose of this paper is to set out Canada’s position regarding the scope and
duration of the first review cycle with a view to streamlining the review process,
ensuring it is sustainable, effective, efficient and manageable. There are a number of
“core” Articles in the United Nations Convention against Transnational Organized
Crime and the Protocols thereto which relate to criminalization, mutual legal
assistance and extradition. These core provisions serve as the foundation of
international efforts against transnational organized crime that all other measures
build upon. As such, Canada proposes that the first cycle of review focus on these
measures so that States parties may fully understand the extent to which the core
provisions have been implemented before the review process undertakes to review
provisions that build upon and rely on such provisions.

The advantages to focusing the first cycle to the core provisions of UNTOC and the
Protocols thereto are numerous. In this respect, the first cycle may draw on
information already compiled through previous responses to the questionnaires,
which have indicated that many States parties have criminalized UNTOC and
Protocol into domestic law. As such, the first cycle may focus on criminalization to
determine the level of convergence between States parties as to the precise content
of their criminal offences. Related but equally critical to the criminalization
requirements are the obligations with respect to mutual legal assistance and

extradition. To the extent that such considerations are foundational for the implementation of UNTOC and the Protocols thereto, focusing the first cycle of the core provisions will provide a sound basis for subsequent cycles of review to build upon. Further, focusing the first cycle on the core provisions will reduce the financial costs of the mechanism to make it more manageable in this era of fiscal restraint while still producing focused and defined reports in a timely manner.

2. **Proposed Allocation of Articles**

   **Convention against Transnational Organized Crime**
   - Article 5 Criminalization of participation in an organized criminal group
   - Article 6 Criminalization of the laundering of proceeds of crime
   - Article 8 Criminalization of corruption
   - Article 10 Liability of legal persons
   - Article 11 Prosecution, Adjudication and Sanctions
   - Article 15 Jurisdiction
   - Article 16 Extradition
   - Article 18 Mutual Legal Assistance
   - Article 23 Criminalization of obstruction of justice
   - Article 34 Implementation of the Convention

   **Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children**
   - Article 5 Criminalization of trafficking in persons

   **Protocol against the Smuggling of Migrants by Land, Sea and Air**
   - Article 6 Criminalization of smuggling of migrants

   **Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their parts and Components and Ammunition**
   - Article 5 Criminalization (firearms)

3. **Duration of Review Cycle**

   Canada agrees with the views expressed during informal consultations that a goal of the first review cycle should be to achieve a 100 per cent response rate in respect to information covering the Articles in the first review cycle. We need not, at this time, look beyond these Articles as they represent the core components of the legal framework established by the treaties. Canada supports a five-year cycle, as is the case in the Corruption context.