



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

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## Report on the meeting of the Working Group of Government Experts on Technical Assistance held in Vienna from 28 to 30 October 2013

### I. Introduction

1. The Working Group of Government Experts on Technical Assistance was established pursuant to decision 2/6 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. In its decision 4/3, the Conference decided that the Working Group should be a constant element of the Conference.
2. In its resolution 6/1, entitled “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference requested the United Nations Office on Drugs and Crime (UNODC), *inter alia*, to continue providing technical assistance in order to support and complement national, regional and thematic programmes and activities based on the needs and priorities of Member States in combating transnational organized crime.
3. Furthermore, in its resolution 6/4, entitled “Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime”, the Conference noted that technical assistance was a fundamental part of the work carried out by UNODC to assist Member States in the effective implementation of the Convention and the Protocols thereto.
4. One speaker stated that issues not relevant to the agenda of the meeting of the Working Group should not form part of its final report.

### II. Recommendations

5. The Working Group recommended that the Conference, at its seventh session, should consider initiating discussions regarding the possibility of the Working Group developing and following a multi-year workplan for its future meetings.



6. The Working Group also adopted the recommendations presented below.

**A. Assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime**

7. States should share best practices in implementing, in addition to articles 24 and 25 of the Convention, article 26, in particular, the provisions of that article on providing for the possibility of: mitigating punishment of an accused person who cooperates in the investigation of an offence covered by the Convention; and granting immunity from prosecution to a person providing cooperation in the investigation of an offence covered by the Convention.

8. States should consider strengthening in-court and procedural protection measures.

9. States should consider setting up special facilities for recording the testimony of vulnerable witnesses such as children.

10. States should provide the possibility for vulnerable witnesses to be supported before and during proceedings and to be accompanied by persons trained in assisting victims and witnesses within prosecutors' offices, as appropriate.

11. States should consider placing within prosecutors' offices, as appropriate, persons trained in assisting victims and witnesses.

12. States should provide specialized training for law enforcement, prosecutors and judicial officials.

13. States should consider establishing standardized procedures for phased protection schemes taking into account the risks faced by witnesses and victims in order to identify the appropriate protection measures, including video link testimony and other technical facilities for communication.

14. States should carry out threat assessments, as appropriate, to determine the level of risk to an individual witness or victim.

15. States should consider enacting legislation to regulate the protection of witnesses and should have the assistance of the model law on witness protection, created by UNODC in 2008.

16. States should endeavour to expeditiously handle cases in which witnesses are receiving protection.

17. States should consider availing themselves of technical assistance made available by UNODC on witness protection, including tools, study visits, legislative assistance and drafting, as well as training for prosecutors, judges and law enforcement officers.

18. States should provide appropriate protection measures not only for victims, witnesses, informants and experts, but also for judges, prosecutors, law enforcement officials and other persons involved in criminal proceedings, as well as for their family members.

19. With the assistance of UNODC and within existing resources, States should implement capacity-building programmes to educate relevant officials regarding the protection of victims and witnesses of organized crime, as well as whistle-blowers, and regarding witness protection schemes.

20. UNODC should prepare a study on the institutionalization of witness protection programmes in Member States, subject to the availability of extrabudgetary resources.

**B. Establishing capacity-building programmes for prosecutors, members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination**

21. States should share good practices and experiences regarding ways to foster coordination and cooperation between national authorities with overlapping mandates.

22. States, UNODC and intergovernmental organizations should continuously seek to share information concerning technical assistance activities in order to better coordinate activities with a view to enhancing synergy.

23. States, in coordination with UNODC and within existing resources, should put in place training programmes that are tailored to the needs of the beneficiaries. In this regard, the use of case studies, mock trials and other practical exercises can be highly effective in providing training for certain officials; for others, round-table discussions may provide a more effective means of developing skills.

24. States should consider participating in and supporting the establishment of new and the strengthening of existing networks of central authorities, prosecutors and other criminal justice practitioners, which are facilitated by UNODC in the framework of international judicial cooperation. Consideration should be given to strengthening cooperation and joint activities with the institutes of the United Nations crime prevention and criminal justice programme network.

25. States should facilitate bilateral meetings and consultations of central authorities to discuss practical issues, including good practices and challenges.

26. UNODC should, subject to the availability of extrabudgetary resources, facilitate regional and international meetings of central authorities to discuss practical issues, including good practices and challenges.

27. While finalizing formal requests for mutual legal assistance, the States concerned should consider having informal consultations.

28. UNODC should, subject to the availability of extrabudgetary resources, assist States by preparing an issue paper on the criminal, civil or administrative liability of legal persons.

### **C. Assistance in harmonizing national legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

29. UNODC should continue to provide coordinated technical assistance to States to ensure the effective implementation of the Convention and the Protocols thereto.

30. In its delivery of technical assistance, UNODC should continue to apply the principles contained in the Paris Declaration on Aid Effectiveness, the Accra Agenda for Action (A/63/539, annex) and the Busan Partnership for Effective Development Cooperation, without any prejudice to new developments agreed upon by the international community in that area.

31. UNODC should expand the knowledge base on legislative and administrative measures to combat transnational organized crime, including by preparing, subject to the availability of extrabudgetary resources, issue papers on provisions of the Convention.

32. States should consider using the omnibus survey software as a self-assessment tool to assist the Conference in gathering information on the measures taken and in identifying the technical assistance needed to implement the Convention and the Protocols thereto.

33. UNODC, subject to the availability of extrabudgetary resources, should hold pre-ratification and self-assessment workshops for States, upon request, utilizing the omnibus survey software and other relevant technical assistance tools.

34. UNODC, subject to the availability of extrabudgetary resources, should continue the development of technical assistance tools, for the Convention and the Protocols thereto and on specialized issues, including mutual legal assistance and extradition. In particular, UNODC should continue to work on the knowledge management portal known as Sharing Electronic Resources and Laws against Organized Crime (SHERLOC), building on the work accomplished in the development of the digest of organized crime cases.

35. States in need of technical assistance in implementing the Convention and the Protocols thereto are encouraged to request UNODC to provide such technical assistance.

36. Pursuant to article 32 of the Convention, in order to make the best use of available resources, States parties and UNODC should promote a systematic, comprehensive and strategic view of technical assistance needs in the area of harmonizing national legislation with the Convention and the Protocols thereto. States parties and signatories are reminded of the need to ensure full implementation of the Convention and the Protocols thereto.

## **III. Organization of the meeting**

### **A. Opening of the meeting**

37. The Working Group of Government Experts on Technical Assistance held a meeting in Vienna from 28 to 30 October 2013.

38. The meeting was chaired by Cristian Istrate (Romania). Following the opening statement by the Chair, a statement was made by the Chief of the Organized Crime and Illicit Trafficking Branch of UNODC.

39. Statements were made by the representatives of the following States parties: Pakistan, Norway, Austria and Russian Federation. A statement was also made by the representative of the European Union, a regional economic integration organization that is a party to the Convention.

## **B. Statements**

40. Under agenda items 2-6, statements were made by representatives of the following States parties to the Convention: Oman, France, United States of America, Saudi Arabia, Romania, Egypt, Côte d'Ivoire, Kazakhstan, Iraq, Angola, Russian Federation, Turkey, Morocco, El Salvador, Brazil, Panama, Kenya, Italy, Indonesia, Lebanon, Pakistan, Mexico, Bolivarian Republic of Venezuela, Zimbabwe, Spain, Argentina, United Kingdom of Great Britain and Northern Ireland, Switzerland, Austria and Slovakia. A statement was also made by the representative of the European Union, a regional economic integration organization that is a party to the Convention.

41. The observer for Japan, a signatory State, also made a statement.

## **C. Adoption of the agenda and organization of work**

42. At its 1st meeting, on 28 October 2013, the Working Group adopted the following agenda:

1. Organizational matters:
  - (a) Opening of the meeting;
  - (b) Adoption of the agenda and organization of work.
2. Assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime.
3. Establishing capacity-building programmes for prosecutors and members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination.
4. Assistance in harmonizing domestic legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto.
5. Other matters.
6. Adoption of the report.

## **D. Attendance**

43. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Burundi, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, France, Germany, Ghana, Guatemala, Indonesia, Iraq, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Lithuania, Luxembourg, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United States, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe.

44. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

45. The following States signatories to the Convention were represented by observers: Iran (Islamic Republic of) and Japan.

46. The State of Palestine, a non-Member State maintaining a permanent observer mission to the United Nations, was represented.

47. A list of participants is contained in document CTOC/COP/WG.2/2013/INF/1/Rev.1.

## **E. Documentation**

48. The documents before the Working Group are listed in the annex to the present report.

## **IV. Summary of the deliberations**

### **A. Assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime**

49. At its 1st meeting, on 28 October 2013, the Working Group considered agenda item 2, on assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime.

50. For its consideration of item 2, the Working Group had before it a background paper prepared by the Secretariat (CTOC/COP/WG.2/2013/2).

51. The Chair made an introductory statement. An audiovisual presentation was made by the Secretariat.

52. Statements were made by representatives of the following States parties: Oman, France, United States, Saudi Arabia, Romania, Egypt, Côte d'Ivoire, Kazakhstan, Iraq, Angola, Russian Federation and Turkey.

53. The observer for Japan, a signatory State, also made a statement

54. Several speakers noted that in their countries laws had been adopted, including laws against trafficking in persons, that provided for legal and institutional measures and frameworks to assist and protect victims and witnesses. Some speakers noted that, in their countries, laws had been adopted on the protection of witnesses of organized crime and other serious crime.

55. Several speakers shared information about legal requirements relating to the rights, treatment and protection of victims and witnesses in cases involving serious crime, in particular, trafficking in persons. Regarding measures to protect victims and witnesses, several speakers highlighted the importance of procedural protection measures, in particular the use of video link and conferencing testimony, as well as screens.

56. Several speakers referred to procedural protection measures such as relocation and change of identity, together with police protection measures, and emphasized that they should be last resort measures. It was noted that there was a need to calibrate the level of protection based on the risks and threat of harm to the victim or witness.

57. The importance of having persons capable of providing support to victims and witnesses was highlighted. It was noted that such persons could be placed in the prosecutors' offices. It was noted that in some countries foreign victims and witnesses in cases involving organized crime or terrorism could receive financial support and receive residence permits for up to a year.

58. It was emphasized that interviews with child victims should always be conducted with the support of trained personnel and should be video recorded, in order to avoid revictimization; in addition, technical assistance could be used to set up specially equipped video rooms for conducting interviews with juvenile victims and witnesses. Several speakers discussed whether covert protection programmes should be institutionalized within the Ministry of Justice or the Ministry of the Interior or as independent agencies.

59. The recommendations adopted by the Working Group under agenda item 2 are contained in chapter II, section A, above.

## **B. Establishing capacity-building programmes for prosecutors, members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination**

60. At its 1st and 2nd meetings, on 28 October 2013, the Working Group considered agenda item 3, on establishing capacity-building programmes for prosecutors, members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination.

61. For its consideration of item 3, the Working Group had before it a background paper prepared by the Secretariat (CTOC/COP/WG.2/2013/3).

62. The Chair made an introductory statement. Audiovisual presentations were made by the Secretariat.

63. With the Chair presiding, the discussion under item 3 was led by the following panellists: Catherine Newcombe (United States) and Raluca Simion (Romania).

64. Statements were made by the representatives of the following States parties: Morocco, El Salvador, Brazil, Panama, Angola, Egypt, Kenya and France.

65. The observer for Japan, a signatory State, also made statements.

66. Speakers welcomed the wide range of information provided by UNODC on its global programmes to combat organized crime. Several speakers also welcomed the use by UNODC of mock trials as part of its technical assistance activities. It was noted that providers of technical assistance needed to coordinate their activities in order to avoid overlapping.

67. Some speakers stated that a key priority in tackling organized crime should be increased coordination and information-sharing among national agencies. In that regard, several speakers highlighted the importance of having effective networks of prosecutors and central authorities.

68. With regard to international cooperation, in particular mutual legal assistance, several speakers noted that central authorities occasionally experienced difficulties in receiving responses to their requests for mutual legal assistance. The importance of bringing together central authorities and prosecutors in order to discuss practical issues such as good practices and challenges, as well as differences in the requirements of legal systems, was discussed. It was noted that the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders provided training in international legal cooperation.

69. The recommendations adopted by the Working Group under agenda item 3 are contained in chapter II, section B, above.

### **C. Assistance in harmonizing national legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

70. At its 2nd and 3rd meetings, on 28 and 29 October 2013, the Working Group considered agenda item 4, on assistance in harmonizing national legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto.

71. For its consideration of item 4, the Working Group had before it a background paper prepared by the Secretariat (CTOC/COP/WG.2/2013/4).

72. The Chair made an introductory statement. Audiovisual presentations were made by the Secretariat.

73. With the Chair presiding, the discussion under item 4 was led by the panellist Raluca Simion (Romania).

74. Statements were made by the representatives of the following States parties: Italy, Egypt, Kenya, Indonesia, Turkey, Panama and Lebanon. A statement was also made by the representative of the European Union, a regional economic integration organization that is a party to the Convention.

75. The observer for Japan, a signatory State, also made a statement.



76. Speakers emphasized the importance of technical assistance in harmonizing legislation with the Convention and the Protocols thereto. In that regard, many speakers mentioned the need to systematically gather and standardize information on national legislation in order to fully understand countries' needs and priorities.

77. Several speakers described the successes achieved, as well as the difficulties encountered, in harmonizing the Convention and the Protocols thereto into their national legislation and policies. They underlined the value of tools produced by UNODC such as the model legislative provisions against organized crime, the digest of organized crime cases and the omnibus survey software. Several speakers welcomed the knowledge management portal known as Sharing Electronic Resources and Laws against Organized Crime (SHERLOC), developed by UNODC to facilitate the dissemination of information regarding the implementation of the Convention and the Protocols through case law and legislation databases.

78. Some speakers recalled their positive experiences of self-assessment and review during the pilot programme to review implementation of the Convention and the Protocols thereto, which ran from 2010 to 2012. In that regard, one speaker mentioned the importance of self-assessment being accompanied by external evaluation in order to keep States connected with current developments, not only in terms of legislation but also in terms of the institutions involved. Several speakers emphasized that the harmonization of legislation with the Convention and the Protocols thereto was a continuous process and that, which although it was resource-intensive and time-consuming, it yielded lasting, tangible results.

79. The recommendations adopted by the Working Group under agenda item 4 are contained in chapter II, section C, above.

#### **D. Other matters**

80. At its 4th meeting, on 29 October 2013, the Working Group considered agenda item 5, on other matters.

81. For its consideration of item 4, the Working Group had before it a conference room paper containing a proposal submitted by the Chair a multi-year workplan for the Working Group.

82. Statements were made by the representatives of the following States parties: Italy, Romania, Pakistan, United States, Mexico, Bolivarian Republic of Venezuela, Kenya, Canada and Zimbabwe.

83. The observer for Japan, a signatory State, also made a statement.

84. Some speakers stated that the proposed workplan could provide a strategic framework for the output of the Working Group. Additionally, it could help to structure the discussions and background papers, assist in defining aims and ensure the best use of resources and tools such as the omnibus survey software.

85. Many speakers emphasized that any agreed workplan should not be considered an alternative to a Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, established pursuant to article 32 of the Convention; instead, it should be a process running parallel to discussions regarding the Review Mechanism.

86. Some speakers questioned the need for such a workplan, requesting more information regarding guiding principles to define the contours of such a proposal. Other speakers expressed concern regarding the financial implications of such a workplan and the feasibility of holding the type of in-depth discussions foreseen in the proposal, in view of the resources available to the Working Group.

87. Many speakers agreed that it would be difficult to reach a decision on the proposal at this stage, that States needed more time to consider such a proposal and that discussions on the proposal could continue at a later stage.

88. The recommendation adopted by the Working Group under agenda item 5 is contained in paragraph 5 above.

## **V. Adoption of the report**

89. Some States parties raised the issue of the participation of civil society in the Working Group, while others reiterated their objections to that discussion and its inclusion in the report.

90. On 30 October 2013, the Working Group adopted the report (chapters I-III and V) (CTOC/COP/WG.2/2013/L.1) as orally amended.

## Annex

### List of documents before the Working Group

<i>Document number</i>	<i>Agenda item</i>	<i>Title or description</i>
CTOC/COP/WG.2/2013/1	1 (b)	Provisional agenda and annotations
CTOC/COP/WG.2/2013/2	2	Discussion paper by the Secretariat on assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime
CTOC/COP/WG.2/2013/3	3	Discussion paper by the Secretariat on establishing capacity-building programmes for prosecutors and members of the judiciary and law enforcement agencies
CTOC/COP/WG.2/2013/4	4	Discussion paper by the Secretariat on assistance in harmonizing domestic legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto
CTOC/COP/WG.2/2013/CRP. 1		Summary of responses to the omnibus self-assessment checklist
CTOC/COP/WG.2/2013/CRP. 2		Proposal for a multi-year workplan for the Working Group on Technical Assistance