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Good practices in the establishment of multi-agency centres

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Background paper by the Secretariat

I. Introduction

1. Pursuant to resolution 5/3, adopted by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fifth session, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

2. In its resolution 6/3, the Conference of the Parties to the Organized Crime Convention decided that the Working Group should continue to perform its functions and should hold at least one intersessional meeting prior to the seventh session of the Conference. The Conference encouraged States parties to reinforce multi-agency cooperation and coordination, such as by considering the establishment of multi-agency centres for the purpose of data collection, strategic and tactical analysis and information-sharing in order to detect, prevent and suppress the smuggling of migrants.

3. In that resolution, the Conference also welcomed the report of the first session of the Working Group, held 30 May to 1 June 2012,¹ which contained recommendations on criminalization, investigation and prosecution, prevention, protection and assistance, as well as international cooperation and proposed areas for future work. The Working Group also recommended that the Secretariat be requested to organize, for this meeting, technical panel discussions on good

* CTOC/COP/WG.7/2013/1.

¹ CTOC/COP/WG.7/2012/6.



practices involving the use of special investigative techniques in cases of the smuggling of migrants and on the establishment of multi-agency centres to enable information on the smuggling of migrants to be shared and responses to such smuggling to be coordinated between agencies and between similar centres in other States parties.

4. The present background paper was prepared by the Secretariat to aid in the deliberations of the working group.

II. Issues for discussion

5. The Working Group may wish to consider the following issues as a basis for its deliberations:

- What are good practices in the establishment of multi-agency centres to combat the smuggling of migrants?
- What considerations should be taken into account, when establishing multi-agency centres?
- Which national agencies are involved in multi-agency centres?
- Are there examples of financial investigation agencies being involved in multi-agency centres addressing the smuggling of migrants?
- What are the powers and responsibilities of individual agencies involved in the fight against the smuggling of migrants?
- What are the powers, functions and typical actions of multi-agency centres in the fight against smuggling of migrants?
- What are good practices in coordinating responses to smuggling of migrants (a) between national agencies and (b) between similar centres in other States parties?
- What are the main challenges to information-sharing and coordinating responses to smuggling of migrants in multi-agency centres?
- Are there examples of joint multi-agency centres for smuggling of migrants, trafficking in persons and/or other crimes? What are the advantages and/or disadvantages of joint multi-agency centres?
- Are there examples of split multi-agency centres addressing smuggling of migrants only? What are the advantages and disadvantages of split multi-agency centres compared to joint multi-agency centres? What is the level of cooperation between different multi-agency centres in one country where each has a specific but different focus?
- How is the protection of the rights of smuggled migrants taken into account in multi-agency centres?

III. Overview of issues and guidance for response

6. The Smuggling of Migrants Protocol and the Organized Crime Convention are the main international instruments in the fight against smuggling of migrants and transnational organized crime. In its preamble, the Smuggling of Migrants Protocol declares that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socioeconomic measures, at the national, regional and international levels. Article 2 of the Smuggling of Migrants Protocol states that the purpose of the Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants. The intent of these provisions is to promote cooperation among, within and between States parties and other relevant actors.

7. National efforts to counter smuggling of migrants are often undermined by the lack of effective bilateral and multilateral mechanisms for the sharing of information and the coordination of operational activities among law enforcement agencies, border control authorities and other relevant actors.

8. Tackling the smuggling of migrants requires a comprehensive approach. Efforts targeting one element of the phenomenon may not necessarily result in reduced smuggling. There is a need for States to elaborate planning and policy documents that enable effective and comprehensive responses to smuggling of migrants through collaborative, multi-agency, long-term, coordinated strategies and well-planned interventions. Planning for action must be based on a sound assessment of both the problem and existing capacities to respond to it, and must be supported by a willingness on the part of the various services and agencies involved to cooperate with one another at the national level, and with counterparts at the regional and international levels.

9. National coordination efforts include the participation of all relevant stakeholders in addressing migrant smuggling, including governmental institutions, authorities, labour inspectors, non-governmental organizations and other elements of civil society, private sector, workers' and employers' organizations, child- and youth-care providers, asylum authorities and other relevant stakeholders. Comprehensive and coherent policies on migrant smuggling and related issues should be put in place. Such issues may include crime prevention, migration, employment, health, security, non-discrimination, economic development and human rights, refugee protection and others. Good practices include: (a) the establishment of a multidisciplinary coordination mechanism or body tasked with implementing a coordinated and integrated national response to migrant smuggling; (b) the commitment of adequate resources to support the implementation of a national response to migrant smuggling; (c) a clear and effective division of labour among Government entities dealing with migrant smuggling; (d) regular meetings of a multidisciplinary coordination mechanism held at the national and international levels; and (e) evidence that any coordination mechanism, which is established, adapts to changing circumstances identified through regular ongoing monitoring and evaluation.

10. Coordination of efforts among Member States is also crucial. Coordination is valuable not only when conducted among the various policymakers concerned, and among governmental agencies involved in anti-smuggling of migrants activities, but also with relevant international organizations, non-governmental organizations and civil society at the regional and international levels.

11. Where there is no cooperation among the various actors involved in responding to migrant smuggling and related issues, the phenomenon will be only haphazardly addressed. Where responses are not coordinated, there will be duplication of efforts and an inefficient use of resources. These risks underline the need for Member States to put in place and strengthen inter-agency coordination and cooperation mechanisms that allow for information exchange, strategic planning, division of responsibility and sustainability of results. Promising practice shows that all relevant stakeholders, including government institutions, non-governmental organizations, service providers and the private sector should be engaged in addressing migrant smuggling, from the point of conception and development of policies through to their operational implementation and the sharing of information and experiences.

12. Given that addressing migrant smuggling is complex and necessarily involves multiple agencies with important roles to play, coordination and cooperation at the national level requires that responsible authorities be brought into the process of combating migrant smuggling, including through inter-ministerial consultations and that the various strands of relevant policy be tied together into a comprehensive response. Member States may also consider centralizing migration-related issues in a dedicated ministry or agency. Experience suggests that the establishment of an inter-agency coordinating body to work on smuggling issues “across Government” greatly assists in both policy and operational coordination. Such a body can provide agencies with a forum for regular meetings and discussions to undertake planning, as well as policy and operational issues. Depending on the country concerned, the establishment of such a body may or may not require legislation.

13. All national approaches to migrant smuggling should be consistent with other relevant national policies in related areas, such as crime, migration, health, security and gender sectors, as well as regional and international frameworks. This means that the development of policies to address migrant smuggling should be conducted in consultation with relevant stakeholders, including international organizations, as well as non-governmental and civil society. In addition to strengthening the effectiveness of policies by ensuring that migrant smuggling policies are integrated with other relevant policies, such an approach is also likely to enhance public acceptability and effectiveness of policies.

14. Multi-agency centres or other forms of multi-agency coordination can serve various purposes, whether it be the formulation of policy, the sharing of information or the undertaking of joint operational activities. The relationship between the core purpose of a multi-agency mechanism and its working methodologies is best analysed in the context of existing national and regional arrangements.

A. Examples of good practices in establishing multi-agency centres

15. One example of good practice in the establishment of multi-agency centres is the European Border Surveillance System (EUROSUR) which aims at reducing the number of irregular migrants entering the European Union undetected, reducing the number of deaths of irregular migrants by saving more lives at sea, and increasing the internal security of the European Union as a whole by contributing to the prevention of cross-border crime. From December 2013, EUROSUR will apply to the Member States located at the southern sea and eastern land external borders of the European Union (Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain), as well as to Norway. EUROSUR will apply to the remaining Member States with land and sea external borders (Belgium, Germany, Netherlands and Sweden) from December 2014.

16. Under the EUROSUR mechanism, national authorities responsible for border surveillance (border guards, coast guards, police, customs and navies) will be able to exchange operational information and cooperate with each other, with Frontex (the European border management agency) and with neighbouring countries to fight serious crime and to intervene to save lives at sea. The exchange of information will take the form of “situational pictures”, which can be described as graphical interfaces presenting data, information and intelligence. EUROSUR aims at connecting and rationalizing existing surveillance systems at national level. For the purposes of the mechanism, each State is required to create a National Coordination Centre (NCC) that collates information from its various border-control and law-enforcement bodies to create a coherent national picture. NCCs need to be interconnected via a mechanism that enables them to share information, while also retaining control over what data is shared with whom and when.²

17. Several States have already implemented a multi-agency approach. For example, in Australia, the Australian Federal Police (AFP) and Department of Immigration and Citizenship (DIAC) jointly established a People Smuggling Strike Team (PSST) in 2000. The strike team provides a centrally directed, highly mobile investigative capability against organized migrant smuggling syndicates operating in Australia and overseas. The team consists of investigators, as well as intelligence and financial analysts. The AFP is committed to a multi-agency approach to combat migrant smuggling.³

18. Furthermore, in Germany, a Joint Analysis and Strategy Centre for Illegal Migration (Gemeinsames Analyse- und Strategiezentrum illegale Migration (GASIM)) was established in 2006, with the aim of enhancing the national response to irregular migration by providing an institutionalized cooperation mechanism involving all relevant players at the federal level (the states (*Länder*) are involved on a case-by-case basis). The mandate of GASIM is to provide analysis of all information on illegal migration, in particular, with regard to its links with general crime, organized crime, terrorism, illegal employment and abuse of social benefits;

² http://europa.eu/rapid/press-release_MEMO-13-578_en.htm.
www.frontex.europa.eu/eurosur.

³ www.afp.gov.au/policing/people-smuggling.aspx.

an early warning function; situation reports; and policy advice. GASIM operates mainly through thematic forums that bring together relevant representatives.

19. In the United States of America, the Human Smuggling and Trafficking Center (HSTC) was formally established under the Intelligence Reform Act and Terrorism Prevention Act of 2004. The Secretary of State, the Secretary of the Department of Homeland Security, the Attorney General and members of the national intelligence community jointly oversee HSTC through a high-level, inter-agency steering group. HSTC was established to achieve greater integration and overall effectiveness in efforts by the Government of the United States to combat the smuggling of migrants, trafficking in persons and clandestine terrorist travel. HSTC coordinates activities with foreign Governments to ensure that efforts are addressed globally. It brings together experts from the policy, law enforcement, intelligence and diplomatic arenas to work together and use their knowledge, expertise and authority to address the global threat of illicit travel.

20. Additionally, a Border Enforcement Security Task Force (BEST), was established in 2005 in response to the significant increase in violence along the southwest border with Mexico, by the U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI) in partnership with U.S. Customs and Border Protection, as well as other federal, state, local and international law enforcement officials in Laredo, Texas. On 7 December 2012, the President of the United States signed the Jaime Zapata Border Enforcement Security Task Force (BEST) Act, Public Law 112-205. The law was named in memory of Jaime Zapata, a Homeland Security Investigations (HSI) Special Agent, who had been assigned to the BEST and was killed while on duty in 2011 in Mexico. This law authorizes the Secretary of Homeland Security to: (a) establish BEST units; (b) direct the assignment of federal personnel to the programme; and (c) take other actions to assist federal, state, local, and tribal law enforcement agencies to participate. Currently, a total of 35 BEST units have been established across 16 states in the United States and in Puerto Rico.⁴ In determining whether to establish a new BEST unit or to expand an existing BEST unit in a given jurisdiction, the Secretary of Homeland Security is to ensure that the BEST unit under consideration does not duplicate the efforts of other existing interagency task forces or centres within that jurisdiction, such as existing BEST teams and Integrated Border Enforcement Teams. Current teams at various locations include representatives of the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Investigations, United States attorneys as well as foreign law enforcement agencies participating in BEST including Mexico's Secretary of Public Security (SSP), the Canada Border Services Agency (CBSA), the Ontario Provincial Police (OPP) and the Royal Canadian Mounted Police (RCMP).⁵

21. With regard to the Association of South-East Asian Nations (ASEAN), UNODC has organized advanced training courses on migrant smuggling and related money-laundering and financial flows in view of the success of two UNODC programmes, developed to help local authorities better respond to migrant smuggling challenges: the Development of Multi-agency Port Intelligence Units in

⁴ www.ice.gov/best/.

⁵ www.internationaltradecomplianceupdate.com/?entry=263.

South-East Asia (PIU) and the Smuggling of Migrants Coordination and Analysis Unit (CAU). The PIU programme, funded by the Government of Canada, created port intelligence units (PIUs) in Cambodia, Indonesia and Thailand port areas. Strategically situated for a more effective response, the PIUs will gather migrant smuggling intelligence from beyond their immediate locations and share it with local and international operational law enforcement. The CAU programme is funded by the Government of Australia and operates in Cambodia, Indonesia, Malaysia and Thailand. The CAU aims to create a regional migrant smuggling database that local and international authorities can use to identify migrant smuggling activities and, once identified, more effectively act against them with targeted operational responses.

B. Strategic approaches and formal cooperation among various agencies and other stakeholders

22. Formal protocols and memorandums of understanding between agencies provide a solid basis upon which such a multi-agency collaboration can be built. An example of an existing memorandum of understanding is the agreement concluded between the Human Smuggling and Trafficking Center (HSTC) of the United States and the Royal Canadian Mounted Police. The Memorandum of Understanding was regarded by participating officials as a renewed commitment to share information, to both prevent and address human trafficking and smuggling operations in both countries.⁶

23. An example of a set-up of a multi-agency centre is the Operational Coordination Centre (OCC) set up at Eurojust and run by Eurojust's French, Belgian and United Kingdom Desks, with the assistance of the Eurojust Case Analysis Unit. This was carried out in response to an organized criminal network involved in illegally transporting Middle Eastern nationals via Turkey, Greece, France and Belgium into the United Kingdom of Britain and Northern Ireland. Judicial and law enforcement authorities conducted a successful joint operation in Belgium, France and the United Kingdom, supported and coordinated by Eurojust and Europol, which deployed a mobile office to France for on-the-spot intelligence analysis. The criminal network, located in France, Belgium and the United Kingdom with links in Greece and Turkey, as well as in the Netherlands, had a highly sophisticated and complex logistical organization, with the location of the base of operations shifting from France to Belgium. The migrants first paid approximately €2,000 per person to the network via cash or bank transfer to the United Kingdom. The migrants were collected each night from parking areas in Belgium and France, and put on trucks that transported them to the ferries from Calais to the United Kingdom. The organized criminal network is believed to be responsible for attempting to smuggle between 20 and 30 migrants into the United Kingdom each day, with an estimate of 10 migrants successfully smuggled daily, accounting for approximately 4,000 smuggled migrants per year. Eurojust supported the successful management of the case through the holding of coordination meetings. These meetings were followed by the signing of a Joint Investigation Team (JIT) agreement between France and Belgium in 2012, which the United Kingdom subsequently joined in

⁶ www.dhs.gov/xlibrary/assets/opa/mou-hstc-rcmp-exchange-of-information.pdf.

February 2013. The JIT was co-funded by Eurojust via the JIT Funding Project.⁷ This coordinated cross-border multi-agency approach brought added value to the operation. The operation resulted in a total of 36 persons being arrested, 2 European Arrest Warrants being issued, and 45 premises being searched.

24. Cooperation agreements between State and non-State actors also raise the rate of successful prosecution for smuggling of migrants. As a matter of best practice, formal protocols, setting out the role and responsibilities of law enforcement agencies and relevant non-governmental organizations, and governing the exchange of intelligence between them, should be drawn up.

25. The safety of crime victims remains the sole responsibility of law enforcement officers and only agreements with credible and secure support organizations that have the capacity to deliver services to migrants should be entered into. How such agreements should be worded depends upon local circumstances. However, the formal protocols should include a general joint statement of purpose in relation to combating the smuggling of migrants and upholding the rights of smuggled migrants and should set out the responsibilities of partners. At a minimum, a protocol should include:

(a) A declaration that the intelligence being retained and exchanged is in compliance with relevant data protection and confidentiality legislation;

(b) The process and means through which intelligence will be exchanged. This may relate to a specific position within each organization or to a named individual;

(c) A timetable of scheduled meetings, where appropriate;

(d) The terms of the intelligence exchange, to include both personal data and thematic intelligence;

(e) A description of the process that will be used to resolve difficulties and differences of interpretation; and

(f) A description of how the confidentiality of the personal data exchanged will be protected.

26. Correspondingly, components of a memorandum of understanding might address the following points:

(a) Partners: partners to the memorandum of understanding should be identified. Cooperation is enhanced where partners (such as special cross-border crime units within the police and specialized non-governmental organizations) are identified;

(b) Defining purpose: the basic principles and the purpose of cooperation should be clarified;

(c) Principles of cooperation: a key principle is agreement on a joint approach to combating the smuggling of migrants;

⁷ <http://eurojust.europa.eu/press/PressReleases/Pages/2013/2013-02-06.aspx>.

(d) Target group: specifying the precise target group to benefit from the memorandum of understanding will contribute to a successful referral of crime victims and/or traumatized smuggled migrants and victims of trafficking;

(e) Communication of information: parties to the memorandum of understanding should agree to treat sensitive data as confidential;

(f) Entry into force and amendment of the memorandum of understanding: the memorandum of understanding should come into effect when all relevant parties have signed it and amendments should be made only if all relevant parties agree to them;

(g) Detailed descriptions of partners' responsibilities: defining the different responsibilities of all partners is part of the transparency of the cooperation between governmental and non-governmental organizations.

Annex

Key tools and recommended resources

UNODC Toolkit to Combat Smuggling of Migrants

The UNODC Toolkit to Combat Smuggling of Migrants has been designed to assist countries to implement the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The Toolkit provides guidance, offers promising practices and recommends resources in thematic areas. Tool 6.1 highlights the needs to cooperate in smuggling of migrants cases. Tool 6.2 on types of international cooperation in criminal matters stressed that informal and formal methods of international cooperation are important in order to prevent smugglers from having safe havens. Tool 6.4 introduces the challenges to formal and information cooperation. Tool 4.15 introduces interregional and international coordination mechanisms and institutions within which information regarding the smuggling of migrants is exchanged.

www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/toolkit-to-combat-smuggling-of-migrants.html

UNODC Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants

The UNODC Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants is a practical guide and training tool for criminal justice practitioners around the world. Individual modules are designed to be adapted to the needs of different regions and countries, and can serve as a basis for upgrading or supplementing additional training programmes of national training institutes. Module 8 addresses international cooperation.

www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/electronic-basic-training-manual-on-investigating-and-prosecuting-smuggling-of-migrants.html

UNODC In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants

The UNODC In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants builds on the Basic Training Manual to promote common understanding of relevant concepts and encourages States parties to take a mutually reinforcing approach in their responses to the transnational organized crime of smuggling of migrants. The manual offers a practical approach to the investigation and prosecution of the smuggling of migrants, offering effective practices relevant to all countries of origin, transit and destination, regardless of their legal system. Module 8 addresses law enforcement cooperation and information-sharing.

www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/in-depth-training-manual-on-smuggling-of-migrants.html

UNODC International Framework for Action to Implement the Smuggling of Migrants Protocol

The Framework for Action to Implement the Smuggling of Migrants Protocol is a technical assistance tool that aims to support effective implementation of the Smuggling of Migrants Protocol. The purpose of the International Framework for Action is to assist States parties and non-state actors to identify and address gaps in their response to smuggling of migrants in accordance with international standards.

International instruments, political commitments, guidelines and best practices are drawn upon to elaborate a comprehensive approach in preventing and combating the smuggling of migrants. The International Framework is comprised of four tables addressing prosecution (and investigation), protection (and assistance), prevention, and cooperation (and coordination).

www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Framework_for_Action_Smuggling_of_Migrants.pdf

Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto

The Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto is a publication with the main purpose to assist States seeking to ratify and implement the United Nations Convention against Transnational Organized crime and its Protocols. The Legislative Guides address law enforcement cooperation in Part I, Chapter V and stress that the general obligation to cooperate (Art. 27) is not absolute; rather, it is to be conducted consistent with the respective domestic legal and administrative systems of States. This clause gives States parties the ability to condition or refuse cooperation in specific instances in accordance with their respective requirements. Subject to this general limitation, States parties are to strengthen the channels of communication among their respective law enforcement authorities (para. 1 (a)); undertake specific forms of cooperation in order to obtain information about persons, the movements of proceeds and instrumentalities of crime (para. 1 (b)); provide to each other items or quantities of substances for purposes of analysis or other investigative purposes (para. 1 (c)); promote exchanges of personnel including the posting of liaison officers (para. 1 (d)); exchange information on a variety of means and methods used by organized criminal groups (para. 1 (e)); and conduct other cooperation for purposes of facilitating early identification of offences (para. 1 (f)).

www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html#_Full_Version_2

UNODC Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants

The Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants is a standardized and cross-referenced set of measures designed to enable government officials in immigration, customs and law enforcement agencies and United Nations agencies, as well as other organizations, industry and individuals, to conduct comprehensive assessments of domestic systems, to identify areas of technical assistance, to assist in the design of interventions incorporating

international standards and norms on the prevention and suppression of the smuggling of migrants, and to assist in training on these issues.

The Assessment Guide in its Chapter IX on International Cooperation dedicates a special section to informal law enforcement cooperation.

www.unodc.org/documents/human-trafficking/Migrant-Smuggling/UNODC_2012_Assessment_Guide_to_the_Criminal_Justice_Response_to_the_Smuggling_of_Migrants-EN.pdf

UNODC Competent National Authorities Online Directory

The database provides contact information for the competent authorities of more than 150 States or dependent territories that had been provided to UNODC, including information on specific procedures to be followed in urgent cases. The Directory currently contains the contact information of over 600 Competent National Authorities, organized into thematic categories: extradition, mutual legal assistance, illicit traffic by sea and smuggling of migrants by sea.

www.unodc.org/compauth/en/index.htm

INTERPOL, Model [bilateral] police Cooperation agreement

The suggested model¹ is for bilateral agreements because the General Secretariat is of the view that it is at this level of cooperation that States are most likely to agree on all provisions in the model. However, subject to a few amendments, the model could be used to conclude a regional agreement binding on a small number of States. This is why the word “bilateral” appears in square brackets. The model agreement is general in the sense that it provides for a number of different police cooperation methods. Although the widest cooperation should be encouraged, this general framework can be adapted by States wishing to limit the ways in which cooperation can be carried out (by not including provisions for special investigative techniques for example), to limit the grounds for cooperation (by drawing up an exhaustive list of offences covered by the agreement) or to limit both the ways in which cooperation is carried out and the grounds for that cooperation. The model agreement includes notes explaining the meaning and scope of each article, which are intended to make it easier to understand, adopt and possibly amend the provisions suggested. These notes are extremely important as they should encourage a flexible and coherent use of the model agreement.

¹ www.interpol.int/public/ICPO/LegalMaterials/cooperation/Model.asp.