



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

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**Technical assistance**

## **Technical assistance activities**

### **Working paper prepared by the Secretariat**

#### *Summary*

Technical assistance is given a central role in the implementation of the United Nations Convention against Transnational Organized Crime and its Protocols and has been made a key component of the mandate of the Conference of the Parties.

With the establishment of an open-ended interim working group on technical assistance pursuant to Conference of the Parties decision 2/6, it is expected that specific needs for technical assistance for implementation of the Organized Crime Convention and its Protocols will be addressed by the working group, beginning at the third session of the Conference. This working paper aims at assisting the working group in this endeavour by providing information about technical assistance provided by the United Nations Office on Drugs and Crime (UNODC) as well as lessons learned in that respect.

Key lessons, which continue to be reinforced by UNODC's experience over a number of years, include the need for long-term assistance, rather than an ad hoc approach; the need for adaptation of assistance to meet specific needs; the essential role of follow-up to technical assistance; and the utmost importance of sustainable funding to support technical assistance.

Though UNODC technical assistance covers extensive areas, it appears that the geographical application of UNODC assistance has been restricted owing to limited financial and human resources and that more international political commitment needs to be provided so as to assist Member States in implementing the Migrants and Firearms Protocols.

\* CTOC/COP/2006/1.



Attention should be also drawn to the working paper of the Conference of the Parties at its second session (CTOC/COP/2005/6 and Add.1), which contains a summary of relevant technical assistance provided by international entities, as well as the information provided by States on needs for technical assistance and assistance rendered contained in the analytical reports on the implementation of the Convention and its Protocols (CTOC/COP/2006/2, CTOC/COP/2006/6, CTOC/COP/2006/7 and CTOC/COP/2006/8).

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## **I. Introduction**

1. At its second session, held in Vienna from 10 to 21 October 2005, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, in its decision 2/6 entitled “Technical assistance activities”, decided to establish an open-ended interim working group to advise and assist the Conference in the implementation of its mandate on technical assistance.

2. Pursuant to that decision, the open-ended interim working group will meet for the first time during the Conference of the Parties at its third session and perform the following functions:

(a) Review needs for technical assistance in order to assist the Conference of the Parties on the basis of the information bases established by the Secretariat;

(b) Provide guidance on priorities based on multi-year programmes approved by the Conference of the Parties and its directives;

(c) Take into consideration, as appropriate and readily available, information on technical assistance activities of the Secretariat, as well as of States, and on projects and priorities of States, other entities of the United Nations system and international organizations, in the areas covered by the Convention and its Protocols;

(d) Facilitate mobilization of potential resources.

3. With a view to assessing challenges in implementing the Organized Crime Convention and its Protocols, the Conference requested the Secretariat to continue to develop an information base through (a) analytical reports on the implementation of the Convention and the Protocols based on information provided in response to the questionnaires; (b) requests from States for technical assistance; and (c) lessons learned from assistance previously rendered.

## **II. Information supplied by States on needs for technical assistance and technical assistance rendered**

4. Information gathered through the questionnaires on the needs for technical assistance for the implementation of the Organized Crime Convention and its Protocols, and on technical assistance that has been provided, can be found in the analytical reports on the implementation of the Organized Crime Convention (CTOC/COP/2006/2), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (CTOC/COP/2006/6), the Protocol against the Smuggling of Migrants by Land, Sea and Air (CTOC/COP/2006/7) and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (CTOC/COP/2006/8).

### III. Technical assistance activities of the United Nations Office on Drugs and Crime

5. The following paragraphs provide an outline of the technical assistance activities undertaken by United Nations Office on Drugs and Crime (UNODC) in the areas that are deemed relevant to the ratification and implementation of the Organized Crime Convention and its Protocols since the entry into force of the Convention, that is between 2003 and the present. The present chapter is structured thematically, in accordance with the programme of work of the Conference of the Parties. Article numbers are indicated for those technical assistance activities which are relevant to the implementation of specific provisions of the instruments.

#### A. Legislative assistance

##### 1. Information on technical assistance activities of the United Nations Office on Drugs and Crime

###### (a) Legislative assistance rendered to individual States

6. As the Organized Crime Convention and its Protocols may require legislative adaptation (either in the form of new legislation or amendments to existing laws and regulations), technical assistance activities of UNODC have addressed individual needs for strengthening domestic legislation in order to bring it into compliance with the provisions of the Convention and its Protocols. To make the best possible use of resources, a number of individual legislative assistance activities dealt jointly with the implementation of legal instruments relating to drugs, corruption and terrorism. The process of providing individual legal assistance is sequenced in the three phases, as described below.

7. **Phase I: preliminary action.** UNODC works only on the basis of official requests from Governments. The official request is a manifestation of the will of the Government to implement the instruments concerned. Before organizing a mission to the requesting State, UNODC requests the focal point designated by the Government to provide the Office with the relevant documentation to be analysed and reviewed, taking into account the mandatory provisions of the Organized Crime Convention and its Protocols. This exercise allows UNODC to provide adequate advice to the requesting State, if and when a mission takes place.

8. **Phase II: legal advisory mission.** The purpose of the legal advisory mission is to animate a debate on the main issues and difficulties concerning the ratification and implementation of the international instruments in question and to assist the national authorities in strengthening the relevant provisions of the national legislation, regulations and decrees, as well as in drafting new implementing legislation, if necessary.

9. **Phase III: follow-up to the legal advisory mission.** Following up after the provision of legal advisory services is essential in order to ensure that the assistance achieves its objectives. As appropriate, a second legal advisory mission would be undertaken after an open dialogue with the national authorities, with a view to finalizing the necessary legal changes that will bring the national legislation into

full accordance with the Organized Crime Convention and its Protocols. In addition, the follow-up might include training, if requested.

10. As at July 2006, UNODC had provided various levels of individual legislative assistance to 59 States<sup>1</sup> in ratifying and implementing the Organized Crime Convention and its Protocols and had received additional requests from several States (see table below).

Table

**Legislative assistance rendered to individual States, by region**

|  | <i>No. of States<br/>receiving individual<br/>legislative assistance</i> | <i>Total no. of States<br/>in the region</i> | <i>Recipient States in the<br/>region (percentage)</i> |
|--|--|--|--|
| African States                         | 28   | 53   | 53   |
| Asian States                           | 10   | 52   | 19   |
| Eastern European States                | 11 <sup>a</sup>  | 23   | 48   |
| Latin American and Caribbean<br>States | 9  | 33   | 27   |
| Western European and Other<br>States   | 1  | 29   | 3  |
| <b>Total</b>                           | <b>59</b>  | <b>190<sup>b</sup></b>                       |  |

<sup>a</sup> Includes individual assistance delivered to Serbia and Montenegro.

<sup>b</sup> Kiribati and Palau are not members of any regional group.

**(b) Regional and subregional seminars**

11. A number of regional and subregional seminars and workshops were also held in order to reach a broader, but at the same time more homogeneous, audience, interested in the same subject matters in a cost-effective manner, as well as to facilitate exchange of information, sharing of experience and networking among participants. They also provided an opportunity to identify and assess the needs for technical assistance to individual States. As at July 2006, 24 regional and subregional seminars had been held.<sup>2</sup>

**(c) Guidelines and other materials on treaty implementation**

12. To assist States further in complying with their treaty obligations in a uniform and consistent manner, UNODC has developed and disseminated guidelines and other materials, including the following:

(a) *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*<sup>3</sup> were published in 2004 and are available in the six official languages of the United Nations at [http://www.unodc.org/unodc/en/organized\\_crime\\_convention\\_legislative\\_guides.html](http://www.unodc.org/unodc/en/organized_crime_convention_legislative_guides.html).

(b) The *Travaux préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*<sup>4</sup> were made available in English in the first quarter of 2006, to be followed by the other official languages of the United Nations. The Glossaries of Terms for the Convention and its Protocols ([http://www.unodc.org/unodc/en/crime\\_cicp\\_commission\\_glossaries.html](http://www.unodc.org/unodc/en/crime_cicp_commission_glossaries.html)) were prepared to accompany the

publication of the *travaux préparatoires*, in order to serve as a linguistic tool and provide assistance in identifying the equivalent terms of each entry in all official languages of the United Nations;

(c) The drafting of a model law against trafficking in persons was started in May 2006 by an expert working group organized by UNODC. A revised draft will be circulated for further comments in the third quarter of 2006. UNODC is currently in the process of incorporating comments received from experts and developing a revised text for further consideration;

(d) The Legal Advisory Programme of UNODC has developed a considerable base of model legislation to implement the international drug control conventions, including common provisions of the transnational organized crime, corruption and terrorism-related instruments. These are available for the use of States on topics as diverse as regulatory machinery, jurisdiction, investigatory powers for effective administration, compliance and enforcement and witness protection. These model laws are available at [http://www.unodc.org/unodc/en/legal\\_advisory\\_tools.html](http://www.unodc.org/unodc/en/legal_advisory_tools.html).

**(d) Workshop on the questionnaires**

13. With a view to exploring the reasons behind the problem of underreporting experienced in relation to the provision by States of information to the Conference of the Parties on the implementation of the Organized Crime Convention and its Protocols and in order to help non-responding States to provide timely replies to the relevant questionnaires, UNODC and the Organization for Security and Cooperation in Europe (OSCE) organized a workshop in Vienna on 2 and 3 March 2006, attended by representatives from 38 States members of OSCE, including participants from 4 OSCE Partners for Cooperation. As a result of that workshop, additional responses from States members of OSCE were received (for details, see CTOC/COP/2006/CRP.1).

**2. Lessons learned**

14. Assistance appears to be necessary in the formulation of the four offences established by the Organized Crime Convention (arts. 5, 6, 8 and 23) and, in particular, the offence of participation in an organized criminal group; extradition and mutual legal assistance (arts. 16 and 18); the liability of legal persons (art. 10); the provisions governing the confiscation, seizure and disposal of proceeds of crime or other property (arts. 12-14); jurisdictional issues (art. 15) and the Trafficking in Persons Protocol obligation to criminalize trafficking in persons (art. 5 of the Protocol).

15. A consistent conclusion has been that legislative measures need to be taken first, in order to lay the groundwork for further capacity-building, including subsequent training of officials and practitioners in both the implementation of international instruments and the domestic legislation that has been created or amended to conform with those instruments.

**3. Gaps**

16. To date, States in the Asia and the Pacific region have received the least individual legislative assistance.

## **B. Countering money-laundering and terrorist financing**

### **1. Information on technical assistance activities of the United Nations Office on Drugs and Crime**

17. The Organized Crime Convention widened the definition of money-laundering to include the proceeds of all serious crime. The United Nations Convention against Corruption strengthens the scope of measures to prevent money-laundering.

18. The Global Programme against Money-Laundering has been assisting States since 1997 to develop effective mechanisms for combating money-laundering and, more recently, the financing of terrorism. The Global Programme's broad objective is to reinforce the ability of Member States to set up comprehensive and effective systems against money-laundering and to counter the financing of terrorism and to assist them in detecting, seizing and confiscating illicit proceeds, as required under United Nations and other international standards.

19. Among the types of assistance delivered by the Global Programme against Money-Laundering, its mentoring programme provides long-term in-country assistance to Member States in the field of financial investigation, asset forfeiture and the development of financial intelligence units through the placement of senior experts in requesting States. The mentoring programme was developed after repeated requests from Member States for longer-term rather than ad hoc assistance. States that had already received training to combat money-laundering from UNODC or other sources, suggested that short-term assistance did not fully address their needs in a complex and technically demanding field such as efforts to combat money-laundering. Mentors under the Global Programme have been placed in the Eastern Caribbean region, the Pacific region, Central Asia, South-East Asia, North Africa and the Middle East, West and Central Africa, and in Eastern and Southern Africa. The Global Programme currently has 10 mentors working in the field.

20. UNODC's computer-based training programme is an interactive training programme for law enforcement personnel covering 57 modules in 13 languages in over 20 countries. The programme includes 13 modules addressing money-laundering. The programme is being expanded with the development of additional language versions and new modules, including on asset forfeiture and the financing of terrorism.

21. Mock trials combining training and practical aspects of judicial work have been conducted by the Global Programme against Money-Laundering and the UNODC Legal Advisory Programme for Latin America and the Caribbean, the Pacific region and Southern and East Africa.

22. The Global Programme against Money-Laundering has developed, in collaboration with the UNODC Legal Advisory Programme, the Commonwealth Secretariat and the International Monetary Fund, model laws for both common law and civil law legal systems to assist States in setting up their legislation against money-laundering and to counter the financing of terrorism in full compliance with United Nations conventions and globally accepted norms and standards. Those model laws, which serve as working tools for Member States, are continuously upgraded to address new money-laundering trends. The laws are intended to be

adjusted to the specific characteristics of national legal systems and administrative cultures.

23. Assistance in establishing financial intelligence units has become a priority in technical assistance activities under the Global Programme against Money-Laundering pursuant to article 7 of the Organized Crime Convention. A financial intelligence unit is responsible for receiving, analysing and disseminating to the competent authorities disclosures of financial information concerning suspected proceeds of crime in order to counter money-laundering and financing of terrorism. The unit provides a facility for the rapid exchange of information between financial institutions, law enforcement and judicial authorities, while ensuring confidentiality of the data collected. As such it has become an important part of the systems of States against money-laundering and to counter the financing of terrorism.

24. Most financial intelligence units are now members of the Egmont Group, which was established in 1995. The Egmont Group currently has 102 members following standard best practice among financial intelligence units and promoting international cooperation in the fight against money-laundering and the financing of terrorism. This cooperation includes the exchange of financial intelligence on a secure computer network (the Egmont secure website). The Global Programme against Money-Laundering is an observer to the Egmont Group and regularly holds joint training workshops. Moreover, mentors under the Global Programme are providing specialized advice on standard operating procedures, management and mechanisms to ensure internal and external cooperation.

25. The International Money-Laundering Information Network, a centralized research resource concerning money-laundering and the financing of terrorism, was established in 1998 by UNODC on behalf of a partnership of international organizations involved in the fight against money-laundering. The Global Programme against Money-Laundering administers and maintains the Network on behalf of 10 partner organizations. The Anti-Money-Laundering International Database, a compendium of analyses of anti-money-laundering laws and regulations, including two general classes of money-laundering control measures (domestic laws and international cooperation), forms part of the Network and, inter alia, identifies areas for improvement in domestic laws, counter-measures and international cooperation. Policy practitioners, lawyers and law enforcement officers all regularly use the Network as a key reference point in their daily work and it is an extremely useful tool in the delivery of technical assistance.

## **2. Lessons learned**

26. The following important lessons were learned through the implementation of the Global Programme against Money-Laundering's mentoring programme:

(a) The programme promotes "learning by doing", avoiding ad hoc training that is short-term and hard to follow up. In a technically demanding field, Government agencies require hands-on assistance for capacity-building over a longer period, so that their officers can learn by doing and pass on the learned expertise to colleagues;

(b) While short-term training seminars are useful, they also have certain limitations, often being generic and of necessity having limited content, whereas

States also need on-the-job learning which adapts general principles to their own specific situations;

(c) Workplace training allows for continuous upgrading during the term of the mentorship, to keep pace with changes in law and practice in a rapidly evolving field.

27. The mentoring programme has proved to be a cost-effective approach for the Global Programme against Money-Laundering and donors to address the needs of Member States. The Programme is highly successful and is praised by States receiving the assistance and donors, while an independent evaluation of the Programme has concluded that it could be used as a model for other United Nations programmes.

### 3. Recipient States

28. The States listed below have received assistance in countering money-laundering and financing of terrorism, including in legislative drafting, development of a national strategy against money-laundering and to counter the financing of terrorism, advice on asset forfeiture mechanisms, law enforcement training, computer-based training and analysis of training needs.

|   |   |
|---|---|
| <b>Africa and the Middle East</b>                   | Afghanistan, Benin, Cape Verde, Egypt, Ethiopia, Gambia, Ghana, Iraq, Jordan, Kenya, Kuwait, Lesotho, Mauritania, Mauritius, Namibia, Niger, Nigeria, Senegal, Sierra Leone, South Africa, Swaziland, United Arab Emirates, United Republic of Tanzania, Yemen, Zambia and Zimbabwe |
| <b>Asia and the Pacific</b>                         | China, Cook Islands, Fiji, Macau Special Administrative Region of China, Malaysia, Marshall Islands, Myanmar, Nauru, Palau, Philippines, Republic of Korea, Samoa, Thailand, Vanuatu and Viet Nam   |
| <b>Southern and Eastern Europe and Central Asia</b> | Albania, Armenia, Azerbaijan, Belarus, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Lithuania, Romania, Russian Federation, Serbia and Montenegro, Tajikistan, Turkmenistan and Uzbekistan  |
| <b>Western Europe</b>                               | Liechtenstein, Spain, Sweden, Switzerland, Netherlands  |
| <b>Latin America and the Caribbean</b>              | Antigua and Barbuda, Brazil, Chile, Colombia, Costa Rica, Guatemala, Peru and Venezuela (Bolivarian Republic of)  |

## C. International judicial cooperation in criminal matters

### 1. Information on technical assistance activities of the United Nations Office on Drugs and Crime

29. UNODC has developed and disseminated effective tools and user-friendly manuals for international judicial cooperation in combating transnational organized crime. With a view to accommodating different legal traditions and varying levels of institutional development, the manuals and tools have been developed through a broad participatory process involving input from experts, institutions and

Government representatives from all regions of the world. In most cases, expert groups were established for that purpose.

30. To date, the following tools have been developed by UNODC and are available on the UNODC website or upon request:

(a) **Model Law on Extradition** (art. 16). Produced in 2004 and available in English at [http://www.unodc.org/pdf/model\\_law\\_extradition.pdf](http://www.unodc.org/pdf/model_law_extradition.pdf);

(b) **Model Treaty on Extradition** (art. 16). Adopted by the General Assembly in its resolution 45/116 of 14 December 1990 and amended by the Assembly in its resolution 52/88 of 12 December 1997; available in English at [http://www.unodc.org/pdf/model\\_treaty\\_extradition.pdf](http://www.unodc.org/pdf/model_treaty_extradition.pdf);

(c) **Model Treaty on Mutual Assistance in Criminal Matters** (art. 18). Adopted by the General Assembly in its resolution 45/117 of 14 December 1990 and amended by the Assembly in its resolution 53/112 of 9 December 1998; available in English at [http://www.unodc.org/pdf/model\\_treaty\\_mutual\\_assistance\\_criminal\\_matters.pdf](http://www.unodc.org/pdf/model_treaty_mutual_assistance_criminal_matters.pdf);

(d) **Revised Manuals on the Model Treaty on Extradition and on the Model Treaty on Mutual Assistance in Criminal Matters** (arts. 16 and 18). Published in 2005 and available in English at [http://www.unodc.org/pdf/model\\_treaty\\_extradition\\_revised\\_manual.pdf](http://www.unodc.org/pdf/model_treaty_extradition_revised_manual.pdf);

(e) **Mutual Legal Assistance Request Writer Tool** (art. 18). Launched globally in the second quarter of 2006. This simple practical software tool was developed to assist justice system caseworkers in drafting effective mutual legal assistance requests. The Mutual Legal Assistance software tool is currently available in English, French and Spanish (which will be followed later in 2006 by the Arabic, Chinese and Russian versions), upon online application and approval via UNODC's website <http://www.unodc.org/mla>. A Portuguese version is also available, thanks to an in-kind contribution from Brazil and Portugal.

(f) **Model bilateral agreement on the sharing of confiscated proceeds of crime or property covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988** (art. 12-14). Adopted by the Economic and Social Council in its resolution 2005/14 of 22 July 2005 and available in English at [http://www.unodc.org/pdf/ECOSOC\\_resolution\\_2005-14.pdf](http://www.unodc.org/pdf/ECOSOC_resolution_2005-14.pdf);

(g) **Best Casework Practice in Mutual Legal Assistance, Extradition and Confiscation** (arts. 12-14, 16 and 18). UNODC's Legal Advisory Programme has developed with informal international expert working groups a best casework practice series for those responsible in their own countries for mutual legal assistance, extradition and confiscation casework. These are available at [http://www.unodc.org/unodc/en/legal\\_advisory\\_tools.html](http://www.unodc.org/unodc/en/legal_advisory_tools.html).

31. Earlier drafts of the model law on mutual legal assistance (art. 18) were reviewed in two expert group meetings, held in 2004 and 2005. A revised draft, based on the comments received by the experts, was distributed to Member States for further comments. Additional input will be reflected in the final version of the model law, expected to be completed in September 2006.

32. In its resolution 58/135 of 22 December 2003, the General Assembly requested UNODC to undertake a study on the functioning of extradition and mutual legal assistance (arts. 16 and 18) through existing mechanisms, including bilateral, regional and multilateral agreements or arrangements. A first draft of the study was presented to an intergovernmental expert group meeting, held in November 2005. The revised draft text of the study was then submitted to the Commission on Crime Prevention and Criminal Justice at its fifteenth session, with a view to receiving further comments from Member States.

33. UNODC organized and chaired a small, informal expert working group of extradition casework practitioners in Vienna from 19 to 21 April 2006. The group produced a comprehensive first draft of the operational legal content for UNODC's new software tool to enable central authorities, judges and prosecutors to write effective extradition requests (art. 16). The tool is scheduled for finalization and distribution in 2007, following pilot testing in the field during the third and fourth quarters of 2006.

34. In the framework of its anti-narcotics programmes, UNODC organized a series of national workshops in the Commonwealth of Independent States jointly with the United Nations Development Programme (UNDP), followed by three regional seminars. The workshops were on the areas of extradition, mutual legal assistance and confiscation, the goal being to harmonize legislation and establish links between the law enforcement and judicial sectors in Central Asia, the Caucasus, Afghanistan, Belarus, Iran (Islamic Republic of), Pakistan, the Republic of Moldova, the Russian Federation, Turkey and Ukraine, as well as to establish links with their counterparts in the United Kingdom of Great Britain and Northern Ireland and the United States of America.

35. UNODC has started responding to requests from States for individual assistance in connection with upgrading their legislation in compliance with international instruments. UNODC was invited by the Government of Australia to contribute to the process of reviewing that country's extradition legal framework and arrangements in April 2006.

## **2. Lessons learned**

36. A multilateral, cross-border approach to the effective investigation of serious crime requires the political will to ensure that cooperation is treated as a priority and the availability of both financial and trained human resources. This is essential if current experience is to change. Many prosecutors have not yet realized that almost all cases of organized crime have a cross-border element. It is often easier and cheaper for police and prosecutors to address only national crime and to deal only with offenders within their territory, and yet this is less than optimal. Such an approach focuses on prosecution alone, without the critical high impact of cross-border confiscation of crime-related property. Where cross-border cooperation is attempted, many local police and prosecutors get no further than achieving bilateral contacts and there are frequently problems in the internal interaction and relationship between national authorities. Central authorities often use old, traditional, slow channels of communication. The quality of translation of requests is often poor, delays are the norm not the exception and there is limited communication and feedback between the parties.

37. UNODC technical assistance in the field of international cooperation in criminal matters has been oriented over recent years towards a more hands-on, pragmatic approach: priority has been accorded to making available, or updating, model instruments that could be used as guideline tools for strengthening and streamlining the legal framework on extradition and mutual legal assistance at the national and international levels. Member States have welcomed the availability of these model instruments on the occasion of various international forums and have repeatedly recognized the usefulness of the tools in providing internationally accepted standards and principles and in outlining desirable practices geared towards rendering international cooperation mechanisms more effective. The positive reactions of the recipients of these tools also indicate the importance of having in place a flexible and efficient legal framework regulating extradition and mutual legal assistance, either in terms of a treaty network or in terms of legislation. The provision of legal expertise should therefore be considered as an integral component of technical assistance together with relevant training activities and the development of technical tools intended to facilitate international cooperation casework.

#### **D. Witness protection**

##### **1. Information on technical assistance activities of the United Nations Office on Drugs and Crime**

38. Article 24 of the Organized Crime Convention calls upon States parties to take appropriate measures to protect witnesses in criminal proceedings from threats, intimidation, corruption or bodily injury and to strengthen international cooperation. Article 26 of the Convention calls upon States parties to adopt measures to encourage witnesses who have participated in organized criminal activity to cooperate with the prosecution.

39. UNODC has commenced initiatives to assist Member States in the implementation of the Organized Crime Convention regarding witness protection. In a series of regional workshops beginning in September 2005, experts from both civil and common law systems have contributed to the drafting of United Nations guidelines on the establishment and running of witness protection programmes. Participants in the three workshops have assessed the compliance of national laws and policies with international standards, compared procedures and identified areas for technical assistance to strengthen existing programmes and enhance cross-border cooperation. The United Nations guidelines will be available to Member States by mid-2007.

40. With the support of the Office of the Attorney General of Chile, UNODC organized an expert group meeting to draft a model law on witness protection for Latin America from 24 to 28 July 2006 in Santiago. Commentaries will be written and both the model law and commentaries will be published. Legislative assistance to strengthen laws and regulations has been provided in Peru and is ongoing in Guatemala.

41. Incorporating the concepts identified in the drafting of the international guidelines, UNODC has now developed region-specific technical assistance projects

to support Member States in developing national capacities to run witness protection programmes and encourage cross-border and regional cooperation in this area.

## 2. Lessons learned

42. The following lessons have been learned with respect to witness protection:

(a) Practical adoption by Member States of measures to implement the provisions of the Organized Crime Convention needs to be well supported by UNODC;

(b) UNODC technical assistance activities need to be developed and implemented taking regional needs into consideration;

(c) Member States have a strong interest in developing capacity in this area.

## 3. Gaps

43. There is a lack of available funds for the strengthening of technical assistance offered in the area of witness protection.

## 4. Recipient States

44. The table below indicates the assistance provided or in progress towards the implementation of provisions of the Organized Crime Convention regarding witness protection and identifies the main recipients of that assistance.

| <i>Assistance</i>                                 | <i>Main recipients</i>                                |
|---|---|
| Expert group meeting (September 2005)             | Global  |
| Guidelines (under development)                    | Global  |
| Regional expert working groups                    | Latin America and Asia and the Pacific                |
| Model law on witness protection for Latin America | Latin America   |
| Project idea on strengthening witness protection  | Black Sea States, South-East Europe and Latin America |

## E. Law enforcement and prosecutor training

### 1. Information on technical assistance activities of the United Nations Office on Drugs and Crime

45. In response to requests from Member States, UNODC undertakes technical assessment missions as part of its programme of law enforcement capacity-building assistance. Over the reporting period, missions have been undertaken to Africa, South-East Asia and Latin America.

46. UNODC assistance supports the implementation of the relevant provisions of the Organized Crime Convention, encouraging best practices to counter organized criminal activity and addressing joint investigations (art. 19), special investigative techniques (art. 20), international cooperation (arts. 26 and 27), protection of witnesses (art. 24) and prevention of organized crime (art. 31). UNODC has

developed specialist law enforcement training manuals covering, inter alia, undercover operations, surveillance and controlled deliveries. In addition, the programme has a unique computer-based law enforcement training programme, delivering instruction in national languages to internationally benchmarked standards of training. To date, 150 dedicated computer-based training centres in 26 countries have trained more than 50,000 officers.

47. UNODC also places specialist advisers in the field to strengthen the capacity of its field offices and provide a longer-term impact on capacity-building initiatives.

48. In 2003 and 2004, workshops on the implementation of the Organized Crime Convention were held in over 12 countries. Since 2004, specialized workshops have been held in Peru on the use of special investigative techniques in undercover operations, electronic surveillance and controlled deliveries as a means to dismantle organized criminal groups and a series of such workshops are planned for Central America in late 2006. In addition, in Peru, training on the use of intelligence analysis software has been provided, along with software and computers, to specialized police and prosecution units to support their technical capacity to detect and link the activities of organized criminal groups. Finally, in 2005, a workshop and meeting for prosecutors who handle mutual legal assistance and extradition requests was held in Lima to discuss ongoing cases and how to improve cooperation.

49. In April 2006, UNODC published a Manual of Best Practices to Counter Kidnapping, with training materials for law enforcement and prosecutors. The training materials and the manual were pilot tested in Trinidad and Tobago in March 2006. Additional training will be conducted in Latin America (Paraguay, 16-18 August 2006) and the Middle East in 2006.

50. UNODC is currently working on an initiative to establish a regional information and coordination centre in Central Asia to promote and develop intelligence-sharing and cooperation among law enforcement agencies. The centre will be staffed by liaison officers from law enforcement agencies of the participating States and will serve as a regional focal point for communication, analysis and exchange in real time of operational information on cross-border crime associated with illicit drug trafficking, as well as a centre for organization and coordination of joint operations.

## **2. Lessons learned**

51. The following lessons have been learned in the area of law enforcement and prosecutor training:

- Training tools should be self-sustainable and reusable by recipient States.
- More work is needed in assisting Member States to collect basic crime data to support clear analysis of national and regional trends.
- Measures to prevent kidnapping include adoption of appropriate legislation and establishment of specialized units.
- Further work is needed adequately to meet the needs of those who have been victimized.

### 3. Gaps

52. Cooperation among law enforcement agencies should be increased and relations with international law enforcement agencies, such as Interpol and the European Police Office (Europol), should be strengthened.

### 4. Recipient States

53. The table below indicates the assistance provided in the area of training for law enforcement and prosecutors and identifies the main recipients of that assistance.

| <i>Assistance</i>   | <i>Main recipients</i>   |
|---|--|
| Technical assessment mission  | Ecuador, El Salvador, Ghana, Guatemala, Honduras, Indonesia, Mauritania, Nicaragua, Panama and Viet Nam  |
| Law enforcement and prosecutor training   | Ghana, Guatemala and Peru  |
| UNODC advisers/ mentors   | Colombia, Ghana, Guatemala and Peru  |
| Establishment of a regional information and coordination centre in Central Asia | Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Russian Federation and Uzbekistan,   |
| Container control pilot programme   | Ecuador, Ghana and Senegal   |
| Kidnapping  | Guyana, Haiti, Jamaica and Trinidad and Tobago   |
| Computer-based training   | Bahamas, Barbados, Cambodia, Cape Verde, China (including Hong Kong Special Administrative Region of China), Fiji, Indonesia, Jamaica, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Malaysia, Myanmar, Nigeria, Papua New Guinea, the Philippines, Samoa, Senegal, Solomon Islands, Tajikistan, Thailand, Tonga, Turkey, Turkmenistan, the United Republic of Tanzania, Uzbekistan, Vanuatu and Viet Nam |

## F. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

### 1. Information on technical assistance activities of the United Nations Office on Drugs and Crime

54. By fully implementing the Trafficking in Persons Protocol, Member States can embrace a comprehensive approach to trafficking in persons. UNODC has provided Member States with distinct forms of technical assistance that may be grouped (with relevant articles of the Protocol indicated between parentheses) as described in the following paragraphs.

55. **Pre-ratification assistance** (all arts., especially 3 and 5). Pre-ratification assistance activities include: assessment of any existing relevant legislation; evaluative reporting on the requirements for ratification; and consultation with and advising of multiple parties on implementation. Relevant examples include review and comparative evaluation of legislation in Brazil in 2004; assessment of the legal system in Viet Nam in 2004; and evaluation of planned national administrative measures in Colombia in 2004.

56. **Criminal justice system responses** (arts. 1, 2, subpara. (a), 3-5 and 6, paras. 1, 2, 3 (b) and 5). Activities regarding criminal justice system responses include: supporting the adoption of necessary legislation; supporting the establishment of related institutions, special police units and prosecutorial structures; and training of criminal justice practitioners, including developing and providing specialist training materials. Examples include development of computer-based training modules for law enforcement officers in Asia and the Pacific (2004-2006); provision of technical equipment and training to law enforcement in Albania (2005); and preparation and delivery of training and materials in Southern Africa (2006).

57. **Victim protection and support** (arts. 2, subpara. (b), 6 and 7). Victim protection and support activities include: assisting the review and revision of domestic legislation concerning support and protection of victims; supporting physical, psychological and social assistance to victims, including cooperation with non-governmental organizations and civil society; establishing measures to avoid immediate deportation in cases of repatriation; and securing the safety of victims. Examples include development and implementation of a victim protection model in the Czech Republic and Poland (2004-2005); crisis intervention for foreign domestic workers as potential victims of trafficking in Lebanon (2006); and development of a model comprehensive service in the Philippines (2005-2006).

58. **Policy development** (arts. 6, para. 3, 9, paras. 1-3 and 10). Policy development activities include: analysing and developing national policymaking and coordination mechanisms to facilitate and coordinate all activities conducted under the Trafficking in Persons Protocol; assistance to produce viable national action plans supported by a national inter-agency coordination mechanism; and assistance needed to implement such policies. Examples include supporting the implementation of the Economic Community of West African States (ECOWAS) regional action plan (2003-2004); and development of a Middle East and North Africa regional plan of action (2006).

59. **International cooperation** (arts. 2, subpara. (c), 9, para. 3, and 10-13). International cooperation activities include developing cooperation among officials in different States in carrying out investigations, prosecution, prevention and victim and witness protection actions (including regional action plans), by enabling effective information exchange and joint action in combating trafficking. Examples include a regional workshop for border management agencies in Central and Eastern Europe (2006); and facilitation of joint operations between police forces in China and Viet Nam (2004-2006).

60. **Prevention and awareness-raising** (arts. 2, subpara. (a), 9 and 10, para. 2). Prevention and awareness-raising activities include: information campaigns; data collection and analysis; awareness-raising of policymakers, criminal justice

practitioners and other authorities; and long-term prevention methods, including creating employment and education opportunities for groups at risk and victims of trafficking (to lessen the likelihood of trafficking). Examples include development and distribution of public service announcements since 2001; a print campaign in 16 Eastern European States (2003-2004); and the provision of grants to 19 non-governmental organizations worldwide (2004).

61. **Coordination of technical assistance activities** (all articles). In accordance with Economic and Social Council resolution 2006/27 of 27 July 2006, a meeting on technical assistance for Member States in order to coordinate, with due regard to the work of the Conference of the Parties to the Organized Crime Convention, the work of agencies and bodies of the United Nations system, as well as other relevant intergovernmental organizations, will be organized by UNODC and hosted by the Government of Japan, tentatively on 26 and 27 September 2006 in Tokyo.

## 2. Lessons learned

62. Experience has consistently demonstrated the importance of providing assistance that builds capacity incrementally. To date, this has been put into effect by designing and implementing replicable projects, following a modular approach. This approach has also been followed at the activity level, where, in recognition that no one size fits all, efforts have been made to collect, analyse and make available diverse examples of different forms of best practice responses, such as those included in the *Toolkit to Combat Trafficking in Persons* to be published shortly by UNODC.

63. Further, assessment activities are critical to the success of technical assistance. Noting that nationally held information on human trafficking is generally very poor, there is a need for proper and more extensive assessment of human trafficking practices in countries and regions to develop effective technical assistance in those places and to monitor the impact of any actions taken.

## 3. Gaps

64. The key gap to date has been the limited geographical application of technical assistance in support of the Trafficking in Persons Protocol owing to UNODC's lack of resources. While the activities detailed above have been successfully implemented and positively evaluated, there are many States desperately in need of similar assistance.

65. A number of specific gaps in the form of assistance rendered have also been identified. Limited technical assistance has been provided regarding article 7 (status of victims in receiving States) and article 8 (repatriation), indicating that UNODC's work to date has mostly been within States of origin. These provisions, however, remain as fundamental to securing convictions for trafficking in persons as providing for witness protection and consideration might be given to supporting more actively the implementation of the relevant articles of the Protocol.

66. UNODC does not currently provide assistance to develop national human trafficking data collection mechanisms and the related institutional infrastructure. Further, owing to the relative immaturity of responses developed so far, a distinct risk exists in the limited assessment and monitoring components of technical assistance work. With sufficient resources, a greater focus on assessment activities

and detailed identification of national gaps in implementing the Trafficking in Persons Protocol would greatly enhance the impact of UNODC's technical assistance.

#### **4. Recipient States**

67. The table below identifies the main recipients of assistance in the implementation of the Trafficking in Persons Protocol.

|                             |  |
|-----------------------------|--|
| <b>Africa</b>               | Benin, Burkina Faso, Ghana, Niger, Nigeria, South Africa and Togo<br><br>Regional organizations: ECOWAS, Southern African Development Community and Southern African Regional Police Chiefs Cooperation Organization |
| <b>Asia and the Pacific</b> | India, Philippines and Viet Nam<br><br>Regional: computer-based training   |
| <b>Europe</b>               | Albania, Bosnia and Herzegovina, Croatia, Czech Republic, Poland, Republic of Moldova and Slovakia   |
| <b>Latin America</b>        | Brazil and Colombia  |
| <b>Middle East</b>          | Lebanon  |

### **G. Protocol against the Smuggling of Migrants by Land, Sea and Air**

#### **1. Information on technical assistance activities of the United Nations Office on Drugs and Crime**

68. In 2005 and 2006, UNODC gathered information on smuggling of migrants, including the involvement of organized criminal groups and their modus operandi, and made preparatory arrangements for the delivery of technical assistance to assist Member States in implementing the Migrants Protocol. Focusing on the Middle East, North Africa and West Africa, these activities included field and desk research. A fact-finding mission visited the Gambia, Mali, Mauritania, Senegal and Sierra Leone in June 2006. As a result, two research reports were compiled and in June 2006 UNODC convened an interregional expert group meeting, which prepared a regional plan of action against trafficking in persons and smuggling of migrants in the Middle East and North Africa (covering the Trafficking in Persons and Migrants Protocols). The plan of action will be presented at a high-level conference scheduled to be held in the region in 2007. For the same purpose, during the Euro-African Ministerial Conference on Migration and Development, held in Rabat in July 2006, UNODC launched the "IMPACT Initiative" to combat the smuggling of migrants from Africa to Europe (all articles). To that end, a comprehensive technical cooperation programme has been formulated, which is being submitted to the donor community in order to obtain the necessary funding.

## 2. Lessons learned

69. The research on smuggling of migrants and other activities contributed to acquiring a better knowledge of the shortcomings in implementing the Migrants Protocol. Tackling the smuggling of migrants should become a high political priority as one of the main enabling factors for developing effective criminal justice system responses, promoting international cooperation and delivering technical assistance.

## 3. Gaps

70. Depending on the allocation of adequate financial resources, UNODC will be able to provide technical assistance to target identified implementation gaps in the following areas:

(a) **Legislation** (all arts., in particular arts. 3, 5 and 6). National legislation often does not meet the minimum requirements of the Migrants Protocol;

(b) **Criminal justice system response, including border measures** (arts. 11, 12 and 14). The lack of specialized personnel often hampers effective prevention, investigation and prosecution of smuggling of migrants as well as the required protection of the rights of smuggled migrants. Many States lack a coherent and institutionalized framework to coordinate and prioritize action with a view to countering the smuggling of migrants effectively;

(c) **International cooperation** (arts. 7, 8, 10, 11 and 13). National efforts to prevent and combat the smuggling of migrants are often undermined by inadequately controlled borders and the lack of specific bilateral and multilateral mechanisms for information-sharing and coordination of activities;

(d) **Prevention and awareness-raising** (art. 15). The general public, and also often the relevant authorities, do not perceive smuggling of migrants as a criminal activity that poses serious risks to the migrants and the societies concerned;

(e) **Data collection and research**. Evidence-based knowledge on perpetrators and criminal groups involved in the smuggling of migrants, including information about their modus operandi, is limited, hampering the formulation of effective policies to counter the smuggling of migrants.

## 4. Recipient States

71. Apart from preparatory activities, no UNODC technical assistance projects on smuggling of migrants have been carried out to date.

## H. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition

### 1. Information on technical assistance activities of the United Nations Office on Drugs and Crime

72. In addition to publishing the *Legislative Guide for the Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations*

*Convention against Transnational Organized Crime*,<sup>5</sup> in 2006 UNODC commenced developing guidelines to assist Member States in the practical implementation of the Firearms Protocol. These guidelines are to be drafted in a series of expert working groups, commencing in Vienna in November 2006. In line with the Protocol, they will cover the following topics: record-keeping (art. 7), export, import and transit licensing or authorization systems (art. 10) and brokering (art. 15).

73. In 2004, UNODC, in cooperation with UNDP, started a preparatory assistance programme aimed at the ratification of the Firearms Protocol by supporting all countries of the Common Market of the Southern Cone (MERCOSUR) (Argentina, Brazil, Paraguay and Uruguay). The initiative includes the collection and analysis of available data on firearms control measures in the region, the organization of senior-level seminars to analyse the collected information, the design of a common MERCOSUR action plan and the development of a regional project supporting firearms control (arts. 3, 5-9 and 13).

74. From 2004 to 2006, UNODC has provided substantive input to the preparation of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (all articles of the Firearms Protocol).

75. An example of how UNODC is promoting awareness on firearms control is the “Escopetarras” guitar, produced in Colombia from decommissioned rifles. The instrument was featured at United Nations Headquarters during the 2006 United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (art. 31 of the Organized Crime Convention).

76. Through the framework of the United Nations Coordinating Action on Small Arms Mechanism and in cooperation with the Department for Disarmament Affairs and the Department of Economic and Social Affairs of the Secretariat and UNDP, UNODC undertook a joint assessment mission to Guinea-Bissau in 2005. The follow-up mission is pending, subject to the overall situation in the country (all articles).

## **2. Gaps**

77. The following gaps have been identified with regard to technical assistance for the implementation of the Firearms Protocol:

- Need for a proactive information programme in Member States to increase political will in order to support the implementation of the Firearms Protocol.
- Need for committed funding from donors to enhance sustainability of initiatives to assist States in implementing the Firearms Protocol.
- Lack of fundamental knowledge among Member States on how to approach and implement firearms control.

## **3. Recipient States**

78. The table below indicates the assistance provided for the implementation of the Firearms Protocol and identifies the main recipients of that assistance.

| <i>Assistance</i>                                  | <i>Main recipients</i>                  |
|--|---|
| MERCOSUR assistance                                | Argentina, Brazil, Paraguay and Uruguay |
| Preparation of the ECOWAS Convention on Small Arms | ECOWAS region                           |
| “Escopetarra” exhibition                           | Colombia/global                         |
| CASA assistance                                    | Guinea-Bissau                           |

## **I. Training materials, research support and collection of information**

### **1. Information on technical assistance activities of the United Nations Office on Drugs and Crime**

79. UNODC has undertaken and published a number of studies on problems posed by transnational organized crime. These include:

(a) *Transnational Organized Crime in the West African Region*.<sup>6</sup> This report, published in 2005, is available in English at [http://www.unodc.org/pdf/transnational\\_crime\\_west-africa-05.pdf](http://www.unodc.org/pdf/transnational_crime_west-africa-05.pdf);

(b) *Crime and Development in Africa*. This report, published in June 2005, is available at [http://www.unodc.org/pdf/African\\_report.pdf](http://www.unodc.org/pdf/African_report.pdf) (English) and [http://www.unodc.org/pdf/research/Africa\\_report\\_french.pdf](http://www.unodc.org/pdf/research/Africa_report_french.pdf) (French);

(c) *Trafficking in Persons: Global Patterns*, was published in April 2006 and is available in English at [http://www.unodc.org/unodc/en/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/en/trafficking_persons_report_2006-04.html);

(d) The *Toolkit to Combat Trafficking in Persons* (English) has been finalized and sent for printing. Every effort is being made to make it available at the third session of the Conference of the Parties;

(e) The study on fraud and the criminal misuse and falsification of identity, prepared by an intergovernmental expert group in accordance with Economic and Social Council resolution 2004/26 of 21 July 2004, will be submitted to the Commission on Crime Prevention and Criminal Justice at its sixteenth session, in 2006;

(f) “Assessment of the Legal System in Viet Nam in Comparison with the Organized Crime Convention” (September 2005). UNODC provided substantive comments and input for the elaboration of this assessment, prepared by a group of legal experts from the Government;

(g) “Assessment of the Legal System in Peru in Comparison with the Organized Crime and Corruption Conventions” (September 2005). This assessment was a joint effort between UNODC and a non-governmental organization, Peruvian Corporation for the Prevention of Drug Problems and Female Children at Risk.

## IV. Conclusion and recommendations

80. While UNODC technical assistance has proved to be a key element in various areas to assist Member States in their efforts to combat the multifaceted threats posed by transnational organized crime, it is evident that much needs to be done to sustain these efforts, building upon the experience gained.

81. Some lessons have been learned that are common to some or all types of technical assistance provided by UNODC, including:

- It is crucial that UNODC receive predictable and sustainable funding to provide technical assistance in order to ensure that the international efforts to counter transnational organized crime are strengthened.
- Technical assistance requires time. Assistance in a very limited period of time has little impact.
- While models, tools and manuals are cost-effective, there is no one-size-fits-all solution. Their use needs to be carefully adapted to specific needs of recipients.
- Follow-up to technical assistance is essential in order to ensure not only that the assistance that is provided is fine-tuned to meet the changing needs of recipients but also that best practices are systematically fed back into the design and implementation of future technical assistance activities.

82. In addition, the Conference of the Parties may wish to consider addressing several gaps in UNODC technical assistance as indicated above, in particular the limited geographical application of UNODC's technical assistance, as well as the current lesser emphasis on assistance in support of the Migrants and Firearms Protocols.

### *Notes*

<sup>1</sup> Including Serbia and Montenegro. Following the Declaration of Independence by the National Assembly of Montenegro on 3 June 2006, the President of the Republic of Serbia notified the Secretary-General that the membership of the state union Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system, was continued by the Republic of Serbia, which remained responsible in full for all the rights and obligations of the state union Serbia and Montenegro under the Charter of the United Nations. By its resolution 60/264 of 28 June 2006, the General Assembly admitted the Republic of Montenegro to membership in the United Nations.

<sup>2</sup> In addition to the 10 pre-ratification seminars held prior to the entry into force of the Organized Crime Convention, 12 seminars were held for the following groups (numbers in brackets indicate the number of participating States): (a) in 2003, Southern African Development Community (12) and French and Portuguese speaking countries of Africa (22); (b) in 2004, the Intergovernmental Authority on Development (6), Central Asia and the Caucasus (9), French-speaking countries of Africa (24), Portuguese-speaking countries (7), the Organization of the

Islamic Conference of the Arab region (8) and West and Central Africa (19); (c) in 2005, Central and South-Eastern European States (10) and Portuguese-speaking countries (7); and (d) in 2006, the Organization for Security and Cooperation in Europe (54) and Central America and the Caribbean (8).

<sup>3</sup> United Nations publication, Sales No. E.05.V.2.

<sup>4</sup> Ibid., Sales No. E.06.V.5.

<sup>5</sup> Ibid., Sales No. E.05.V.2, part four.

<sup>6</sup> Ibid., Sales No. E.05.XI.1.

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