



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

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### Technical assistance

## Technical assistance programmes, proposals and future programmes envisaged in the priority areas determined by the Conference and the Working Group of Government Experts on Technical Assistance

### Working paper prepared by the Secretariat

## I. Introduction

1. The Open-ended Interim Working Group of Government Experts on Technical Assistance was established pursuant to decision 2/6 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. In its decision 4/3, the Conference decided that the Working Group would be a constant element of the Conference.

2. At its first intersessional meeting, held in Vienna from 3 to 5 October 2007, the Working Group identified five priority areas: (a) gathering information on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;<sup>1</sup> (b) strengthening criminal justice responses to organized crime on the basis of the Convention and its Protocols; (c) international cooperation and the establishment or strengthening of central authorities for mutual legal assistance and extradition; (d) data collection; and (e) implementation of the Protocols to the Convention.

3. In its decision 4/3, the Conference took note of the Secretariat's proposals for technical assistance activities designed to meet the needs identified in the priority areas determined by the Conference (see CTOC/COP/2008/16) and endorsed that approach. At its second intersessional meeting, held in Vienna on 1 and 2 October 2009, the Working Group recommended that in the framework of the

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\* CTOC/COP/2010/1.

<sup>1</sup> United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.



five priority areas, technical assistance projects should focus on the following priority activities:

(a) Raise awareness among States parties and, where appropriate, non-parties, of all aspects of capacity-building, including education, in the area of international cooperation against transnational organized crime;

(b) Assist States parties and, where appropriate, non-parties, in their efforts to promote cooperation to combat transnational organized crime through implementation of the provisions of the Organized Crime Convention and its Protocols, giving particular attention to mutual legal assistance and extradition;

(c) Assist all Member States in their efforts to ratify or accede to the Convention and its Protocols;

(d) Build the capacity, including through education, and raise the awareness of officials with the primary responsibility for providing replies to the questionnaires and checklist, and provide assistance in the preparation of reports on the implementation of the Convention and its Protocols;

(e) Assist States parties and, where appropriate, non-parties, through legal assistance in the formulation and enhancement of national laws and standards for the prevention and prosecution of all forms of transnational organized crime and provide capacity-building for the implementation of such laws and standards;

(f) Build capacity, including through education, and conduct awareness-raising activities, with a view to the following:

(i) The establishment of a competent central authority, giving particular attention to mutual legal assistance;

(ii) The establishment or enhancement of a scheme for coordination among competent governmental authorities, including law enforcement officials, experts from scientific laboratories, prosecutors, judges and other responsible officials, in the fight against transnational organized crime;

(g) Assist States parties and, where appropriate, non-parties, in the development of national, bilateral and regional programmes for the protection of witnesses and victims of transnational organized crime;

(h) Assist States parties and, where appropriate, non-parties, in their efforts to promote law enforcement cooperation in accordance with article 27 of the Convention.

4. The Working Group also requested the Secretariat to prepare a report on the current technical assistance programmes and the programmes envisaged for the future, with an evaluation of the outcome of those programmes, as well as a report on the proposals for implementing the priority activities described in paragraph 3 above.

5. In response to those requests, the present working paper provides updated information on the status of technical assistance activities proposed at the fourth session of the Conference. It also outlines programmed activities to address priority areas established by the Working Group, as well as proposals for future technical assistance activities.

## II. Strategic approach of the United Nations Office on Drugs and Crime to countering organized crime and illicit trafficking

6. Since the fourth session of the Conference, the United Nations Office on Drugs and Crime (UNODC) has pursued a strategic approach to its technical assistance in countering organized crime and illicit trafficking through the development of thematic and regional programmes. A thematic programme on transnational organized crime is being prepared, reflecting UNODC policy guidance and the global framework (i.e. mandates, guiding principles, methodologies and tools) for the period 2010-12. The thematic programmes are being developed by UNODC headquarters to provide an overview of the UNODC mandate and strategy in each thematic area. Regional programmes complement the thematic programme by adopting a bottom-up approach, thus ensuring:

(a) Full ownership by partner countries through alignment with national and regional policies and priorities;

(b) A move from a project-based approach to a programmatic approach;

(c) More effective cooperation and planning with other United Nations entities and multilateral partners and stakeholders.

7. To date, UNODC regional programmes have been developed, in full consultation with Member States, for East Asia and the Pacific, East Africa, Central America, the Caribbean and the Balkans. Additional regional programmes will be launched in the period 2010-11 for Central, West and Southern Africa, the Arab States, Central and West Asia, and the Southern Cone of Latin America.

8. The first pillar of the work in every regional programme is the measures to prevent and combat organized crime and illicit trafficking. The regional programmes will be reviewed periodically and modified as required based on lessons learned during implementation. Although each programme is developed on the basis of the specific needs and priorities of that region, the fight against organized crime and illicit trafficking constitutes a key pillar of all regional programmes.

9. Responding to the operations of criminal organizations requires a concerted effort from the State and its neighbouring States, especially on border management. It is therefore necessary to establish transnational mechanisms to respond to organized crime and strengthen the rule of law component of peacebuilding and peacekeeping strategies. The joint West Africa Coast Initiative is an example of an effective regional approach (see para. 49 below).

10. Working through its field office network, UNODC assists countries in fighting organized crime and drug trafficking through the provision of legislative and technical assistance, support to national and regional strategies and action plans, data collection and research, the enhancement of criminal justice system responses (law enforcement officials and prosecuting and judicial authorities), international cooperation, victim protection, and awareness-raising, among other things.

### III. Promoting the ratification and implementation of the Organized Crime Convention and the Protocols thereto

11. The Organized Crime Convention and its Protocols entered into force between 2003 and 2005<sup>2</sup> and have achieved a significant level of adherence among Member States.<sup>3</sup> UNODC considers the provision of legal advice and legislative assistance for the incorporation of the provisions of the Convention and its Protocols into domestic legal frameworks to be among its most urgent duties and has continued to provide legal advisory services, legislative assistance and other forms of technical assistance to Member States in the ratification and implementation of the Convention and the Protocols thereto.

12. Legal services provided, upon request, by UNODC headquarters and in the field include evaluation, gap analysis and advice on existing legislation; support for drafting or the amending of legislation and advice for parliamentarians; providing judges, prosecutors and other key practitioners with training and tools on the application of domestic legislation; and assistance in dealing with practical implementation problems with respect to domestic and international casework. Since 2008, UNODC has provided legal advice and assistance to legislative drafters, judges and prosecutors from Albania, Belarus, Benin, Côte d'Ivoire, Guinea-Bissau, Haiti, Kenya and Senegal at the country level, and to experts from Arabic-speaking countries and countries of the Balkans and Central Asia in the framework of regional workshops. In addition, assistance was provided to Botswana, Mexico and Namibia to enhance legislation on asset forfeiture, and legal assistance was provided in the drafting of a regional model law on asset recovery for Latin America. With the assistance of a mentor on the legal aspects of countering money-laundering, legislation to counter money-laundering and the financing of terrorism was adopted in the Marshall Islands, Solomon Islands, Vanuatu, and the money-laundering mentor for Central Asia provided legislative assistance in Kazakhstan and Uzbekistan.

13. A voluntary pilot project to review implementation of the Organized Crime Convention was initiated in May 2010. Under the project, the legislation and policies of the countries voluntarily participating in the project will be assessed by means of peer review or expert review. The objective is to provide the Conference with information on implementation challenges and make recommendations on the possible features of a full-fledged review mechanism. In that framework, gap analyses will be undertaken, and concrete technical assistance responses will be formulated.

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<sup>2</sup> The Organized Crime Convention entered into force on 29 September 2003, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children entered into force on 25 December 2003, the Protocol against the Smuggling of Migrants by Land, Sea and Air, entered into force on 28 January 2004, and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, entered into force on 3 July 2005.

<sup>3</sup> As at 13 July 2010, there were 156 parties to the Organized Crime Convention, 139 parties to the Trafficking in Persons Protocol, 123 parties to the Smuggling of Migrants Protocol and 81 parties to the Firearms Protocol.

14. Model laws provide a comprehensive set of provisions to assist States in adopting adequate legislation. They are designed to be sufficiently flexible to meet the specific needs of a diverse range of legal systems. UNODC published the comprehensive *Model Law against Trafficking in Persons*<sup>4</sup> for both common law and civil law jurisdictions in June 2009. A model law on the smuggling of migrants developed under the guidance of two expert group meetings held in Vienna in March and October 2009 will be published in October 2010. UNODC also organized three expert group meetings in November 2009 and February and June 2010 to develop a model law against trafficking in firearms. A model law on witness protection and a model agreement on the relocation of at-risk witnesses were also created. UNODC also issued model provisions for common-law countries on money-laundering, financing of terrorism, preventive measures and proceeds of crime in collaboration with the Commonwealth Secretariat and the International Monetary Fund.

15. Further, UNODC provided a number of specialized forms of legal and technical assistance to national criminal justice systems, their institutions and practitioners with respect to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and 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. That assistance included providing States with pre-ratification assistance, facilitating the development of national policy, national coordination and international cooperation mechanisms, undertaking prevention and awareness-raising activities and training practitioners. Detailed reports on the work done by UNODC to promote and support the implementation of the three Protocols are before the Conference (CTOC/COP/2010/5, CTOC/COP/2010/7 and CTOC/COP/2010/8).

16. The comparative advantage of UNODC in delivering high-quality advice and assistance in the implementation of the Convention and the Protocols thereto stems from its expertise on those instruments and its accumulated experience in taking a holistic approach to providing legislative assistance. Of particular value is the capacity of UNODC to provide integrated legal assistance to strengthen the capacity of criminal justice systems to respond, domestically and through international cooperation, to various forms of serious crime covered by the Convention and its Protocols, the international drug control conventions and the United Nations Convention against Corruption,<sup>5</sup> drawing on United Nations standards and norms in crime prevention and criminal justice.

17. In many cases, national efforts to adapt and implement the corpus of provisions contained in the Organized Crime Convention and its Protocols in domestic legislation have been incomplete. There is a need to provide comprehensive and customized assistance to States in order to review and strengthen their criminal justice systems and ensure full compliance with the

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<sup>4</sup> United Nations publication, Sales No. E.09.V.11.

<sup>5</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

international legal regime on drugs and crime. However, contributions by Member States to finance the legal advisory activities of UNODC have been decreasing, thus calling into question the capacity of UNODC to provide much needed and frequently requested legislative assistance. UNODC proposes to considerably enhance the provision of legislative assistance on legislation to combat organized crime and to pursue the training of investigators, judges, prosecutors and other key practitioners of the criminal justice system on the implementation of the Convention and its Protocols as well as develop good practices for use by those practitioners.

18. The delivery of legislative assistance is greatly supported by model laws and model provisions that take into account the diversity of legal systems and traditions and reflect the expertise accumulated in relevant areas. In addition to the model law against trafficking in firearms currently being developed, UNODC proposes developing model provisions and accompanying commentary, organized in modules, for the implementation of the Organized Crime Convention.

19. UNODC has expanded the scope of the online legal library of national legislation giving effect to the international drug control conventions so that it now covers legislation related to the Organized Crime Convention and the Protocols thereto.<sup>6</sup> One hundred and sixty-five laws were added to the online library in 2009, and the online library interface is currently being upgraded.

20. UNODC proposes to pursue work on the development of a digest of successful cases of investigation or prosecution of transnational organized crime that would identify lessons learned and best practices, to be presented to the Conference at its sixth session. It is also suggested that a meeting of experts be convened to identify good practices in the establishment and functioning of specialized units dealing with organized crime, to be used as a reference by States considering the establishment of such units.

21. Emerging crimes can often be considered to be serious crimes under article 2 of the Organized Crime Convention, which defines “serious crime” as “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty”. Legal advice and assistance, as required, can be provided to address emerging forms of crime. In that context, UNODC aims to assist States in adopting adequate legislation and in investigating and prosecuting specific types of crime that fall within the scope of the Convention as a result of the broad definition contained in article 2. UNODC proposes to intensify its legal research and analysis of various forms of serious crime not specifically covered by the Convention and its Protocols but for which there is an indication of the involvement of organized criminal groups, such as is the case with cybercrime, piracy, trafficking in cultural property, trafficking in organs, illegal logging and trafficking in precious metals and other natural resources. UNODC is also considering the development of specific tools such as best practices, legislative guidelines and model provisions to help Member States prevent and combat emerging crimes (see CTOC/COP/2010/3).

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<sup>6</sup> The online legal library is available at [www.unodc.org/enl/index.html](http://www.unodc.org/enl/index.html).

#### **IV. Gathering information on the implementation of the Organized Crime Convention and the Protocols thereto**

22. At its first and second sessions, the Conference requested the Secretariat to gather information on the implementation of the Convention and its Protocols. It was initially decided that information should be gathered by means of questionnaires. An interim self-assessment checklist in the form of a software package was later developed and endorsed by the Conference at its fourth session. The full version of the comprehensive self-assessment software program (“omnibus survey software”) will be presented to the Conference for endorsement at its fifth session.<sup>7</sup> In that connection, the Meeting of Experts on Possible Mechanisms to Review Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto decided that the information provided by States through the checklist and the comprehensive self-assessment software program should be the basis of any future review mechanism.

23. The information received through the questionnaires and the checklist has been analysed by the Secretariat and conveyed to the Conference in the past five years through seven analytical reports, 148 pages of tables reflecting responses and a study of technical assistance requests made by States through the questionnaires.<sup>8</sup> The Secretariat followed up individually with several States that had not provided answers to the questionnaires or the checklist, both during international meetings in Vienna and during staff missions. During regional workshops, UNODC also provided assistance to States to fill out the checklist on the Convention and its Protocols. The comprehensive self-assessment software program was further promoted in side events organized during the meeting of the Working Group on Trafficking in Persons held on 27-29 January 2010 and during the nineteenth session of the Commission on Crime Prevention and Criminal Justice, held on 17-21 May 2010.

24. A structured mechanism to review the implementation of the Convention and its Protocols would be essential in order to analyse, in a structured manner, the wealth of information gathered from States and to ensure that related implementation challenges and technical assistance needs identified are addressed. While the interim checklist appears to have facilitated the provision of the information requested by the Conference, reporting on implementation remains a burden for a number of States that lack the human, administrative or technical capacity for the task. The Secretariat proposes to offer individual assistance to States to prepare their self-assessment reports by funding the participation of a junior staff member in UNODC training sessions and workshops in order to facilitate ad hoc sessions on reporting requirements.

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<sup>7</sup> Detailed information on the development of the comprehensive self-assessment software program is contained in document CTOC/COP/2010/10.

<sup>8</sup> An updated version of the study of technical assistance requests made by States is contained in document CTOC/COP/2010/9.

## V. Improving data collection and analysis

25. Enhanced knowledge of trends in specific crime areas is essential for effective policy formulation, operational responses and impact assessment. UNODC provides training and assistance in the area of crime and criminal justice statistics in order to support countries in the development of national capacities to collect and analyse their own data, with a view to sharing them at the international level. Technical support covers both the strengthening of administrative information systems used by law enforcement and criminal justice institutions, and capacity-building for the conduct of victimization surveys. That support has increased the capacity of States to exchange information, through the use of common definitions on a number of relevant issues. In particular, through a regional project entitled “Development of monitoring instruments for judicial and law enforcement institutions in the Western Balkans”, UNODC conducted assessments of statistics systems used in justice and home affairs institutions in the seven countries and territories of the Western Balkans. The project is currently delivering training to justice and home affairs institutions with a view to strengthening the production of crime and criminal justice statistics and making it possible to generate data for regional crime and criminal justice indicators, in line with the standards being developed by countries of the European Union.

26. The UNODC project to collect and analyse data on drugs, crime and victimization in Africa that commenced in 2007 was completed in early 2010. The project was aimed at assisting African countries in generating better data and information, enhancing their capacity to analyse data and trends related to issues of drugs, crime and victimization, and providing a regional platform for the exchange of information and experience. Among the activities of the project, victimization surveys were carried out with UNODC support in Egypt, Ghana, Kenya, Rwanda, Uganda and the United Republic of Tanzania. Following a workshop held in Addis Ababa in the last quarter of 2008, policymakers from a number of African countries have actively participated in an online forum for sharing information and experience on a wide range of crime phenomena, in order to identify links and develop targeted prevention strategies.<sup>9</sup> The *Manual on Victimization Surveys*<sup>10</sup> was published jointly by UNODC and the Economic Commission for Europe in early 2010 in English, French and Spanish. During the reporting period, UNODC has also advanced work on the availability of statistics on intentional homicide generated by law enforcement and criminal justice institutions for use as a key crime indicator. In December 2009, UNODC made available a multisource homicide database providing information on homicide levels for 198 countries and territories.

27. Although progress has been made, more needs to be done to achieve the goal of conducting systematic and comprehensive analysis. UNODC technical support to

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<sup>9</sup> See the Revised African Union Plan of Action on Drug Control and Crime Prevention (2007-2012). Priority area 2.6, recommended action iv, of the Plan of Action is that the African Union Commission, in collaboration with UNODC and Member States, gather information on the links between drug abuse, drug trafficking, corruption, organized crime, money-laundering, terrorism, and smuggling of persons and arms on the continent, with the view to developing strategies to address these in a holistic manner.

<sup>10</sup> Available from [www.unodc.org/documents/data-and-analysis/Crime-statistics/Manual\\_on\\_Victimization\\_surveys\\_2009\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Manual_on_Victimization_surveys_2009_web.pdf).

date has focused on crime and criminal justice statistics in general. As well, UNODC will continue, in particular, to provide assistance to requesting countries to build their capacity to collect, share and analyse data on organized crime trends. Lessons learned and experience gained from the above-mentioned UNODC project in the Western Balkans will be used to assist countries in other regions in identifying and addressing gaps in the collection and analysis of crime and criminal justice data. In particular, a developing partnership with the Secretariat for Multidimensional Security of the Organization of American States will facilitate the provision of such technical support.

28. Further technical assistance could focus on assisting law enforcement authorities in strengthening their capacity to collect information for analytical purposes and in making the most effective use of such information. The role of prosecutors and courts in combating organized crime is essential in this respect and could be the focus of enhanced assistance. Although law enforcement authorities are a main source of information on organized crime, many data are not available for analysis, especially data on details of crime incidents that would facilitate the identification of those incidents related to organized crime. This is particularly true for the crime of intentional homicide, for which suspected links to organized crime may not always be identified or recorded by investigating authorities. UNODC assistance could focus on sharing best practices in this area and promoting peer-to-peer training and networks, such as that established following the workshop on crime statistics in Africa organized jointly by UNODC and the Economic Commission for Africa, held in Addis Ababa in 2008. Developing countries, in particular, could benefit from assistance in accessing and using software for organized crime analysis, including geographic information systems for plotting and mapping cases and network analysis applications.

## **VI. Strengthening international judicial cooperation to fight transnational organized crime**

29. In its decision 4/2, the Conference noted that the Convention was being used successfully by an increasing number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for purposes of confiscation, encouraged States parties to continue to do so and welcomed the development and expansion of tools to facilitate international cooperation.

30. Since the fourth session of the Conference, UNODC has continued its activities aimed at promoting international legal cooperation. In particular, UNODC has organized a series of regional workshops for central and other competent authorities, liaison magistrates and judges, and prosecutors in charge of cases that require international cooperation, with a view to facilitating exchanges among counterparts and promoting awareness and knowledge of the mechanisms for international cooperation under the Convention. It has also worked on the development and upgrading of tools, such as an online directory of competent authorities, the Mutual Legal Assistance Request Writer Tool now available in

nine languages and a catalogue of examples of cases in which the Convention has been used as a basis for engaging in international cooperation in criminal matters.<sup>11</sup>

31. In its decision 4/2, the Conference also requested that UNODC seek ways to support parties to the Convention in overcoming technical and legal obstacles in the use of videoconferencing. A meeting of experts will be convened in Vienna in July 2010 to consider those issues and the potential of videoconferencing for the protection of witnesses.<sup>12</sup>

32. Significant progress has been made in promoting the provisions of the Convention on international cooperation. The regional workshops, in particular, have provided practitioners of international cooperation valuable opportunities to discuss common problems with counterparts, strengthen working relationships based on mutual understanding and trust and, in a number of instances, make progress on specific pending cases. The funding of those activities has so far been ad hoc and unpredictable, making the proper planning of further activities a challenge. UNODC faces considerable demand for more training and technical assistance in this crucial area of the Convention. UNODC proposes that appropriate funding be provided to carry out requested follow-up activities: legislative assistance, development of resources to facilitate international cooperation, national training workshops, workshops with a subregional or interregional focus, workshops for States linked by a significant flow of related requests, such as origin, transit and destination States along trafficking routes, and workshops with a specific in-depth substantive focus, such as tracing, seizure and confiscation of assets.

33. As noted in paragraph 20 above, UNODC will develop a digest of cases and best practices to assist States in fighting transnational organized crime.

## **VII. Strengthening criminal justice responses to organized crime**

34. Technical assistance provided by UNODC to strengthen criminal justice responses to organized crime includes assistance for the establishment of fair, humane and efficient criminal justice institutions, in line with existing standards and norms in crime prevention and criminal justice, and the strengthening of the rule of law. These are prerequisites for the effective implementation of the Convention and its Protocols and all drug control and crime conventions.

35. In the area of crime prevention and criminal justice reforms in developing, transitional and post-conflict societies, UNODC published tools and policy documents and provided technical assistance through 44 programmes in 39 countries, with the main growth areas being penal reform and alternatives to imprisonment, and conflict resolution and prevention. Tools were developed to facilitate the implementation of relevant United Nations standards and norms in crime prevention and criminal justice. As part of its Criminal Justice Assessment

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<sup>11</sup> Detailed information on the work done by UNODC and proposed activities to promote the implementation of the provisions on international cooperation contained in the Organized Crime Convention are contained in document CTOC/COP/2010/2.

<sup>12</sup> A report of the meeting of experts will be made available in conference room paper CTOC/COP/2010/CRP.2.

Toolkit,<sup>13</sup> UNODC developed four tools: on gender, crime prevention, forensics and border control. UNODC is also part of the United Nations Rule of Law Coordination and Resource Group. UNODC is the lead entity of the Group on the issues of transnational organized crime and trafficking and participated in the development of the United Nations Rule of Law website and document repository ([www.unrol.org](http://www.unrol.org)) and the development of unified training by the United Nations in the area of the rule of law.

36. UNODC is assisting Kenya in effectively managing the process of the professionalization of its prosecution services. Currently, 90 per cent of the cases before the magistrates' courts of Kenya are prosecuted by police prosecutors owing to understaffing of prosecution services and a lack of training. It runs against the concept of separation of powers — a hallmark of fairness in criminal justice systems — that investigatory bodies also exercise prosecuting powers. UNODC has therefore advocated the phasing-in of an adequate number of prosecuting State counsels and the phasing-out of police prosecutors, as part of a broader reform process aimed at improving police services.

37. UNODC has also been actively engaged in the formulation of an international response to the challenge of piracy off the coast of Somalia, a critical component of which is ensuring that suspected pirates are brought to justice. To counter maritime piracy, UNODC has developed a programme that delivers immediate results in the short term to support the interim remedy to piracy (the enforcement of law and order at sea by foreign navies) while investing in the long-term solution: the restoration of the rule of law in Somalia. UNODC is delivering substantial support to regional countries in their efforts to bring suspected pirates to justice. UNODC has worked with a number of countries of the subregion, principally Kenya and Seychelles, to provide support to the police, courts, prosecutors and prisons to ensure that the trials of Somali suspects are effective, efficient and fair. UNODC has reviewed national legislation and worked with States to amend action plans, where necessary, to support piracy prosecutions; supported prosecutors through training and office improvements; developed court facilities (including the introduction of a new courtroom for offences of piracy and other large trials at Mombasa, Kenya); delivered witnesses to trial; substantially improved prison conditions and reduced overcrowding; and improved police practices and evidence handling. As a result, significant improvements have been made to those local criminal justice institutions to the benefit of all who use them. The skills that police, prosecutors and court staff have gained for piracy prosecutions can be applied to all cases, while improvements in local prisons benefit all those detained there. Complementing the work of the United Nations Development Programme, UNODC has also commenced a programme in Somalia focusing on corrections reform, law reform and strengthening the capacity of the prosecution.<sup>14</sup>

38. UNODC has expanded its activities in the field of prison reform, with a budget of about \$30 million, funding projects in Africa (Guinea-Bissau, Nigeria, the Sudan and Uganda), the Middle East (the Occupied Palestinian Territory) and Central and

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<sup>13</sup> Available from <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>.

<sup>14</sup> Detailed information about the UNODC programme to counter piracy is contained in document CTOC/COP/2010/3.

South Asia (Kyrgyzstan and Pakistan), with other projects being developed in Latin America and the Caribbean. Implementation of the large-scale criminal justice programme in Afghanistan continued, focusing on extending the programme into the provinces. The goal of the programme is to strengthen the capacity of permanent judicial institutions to develop an accessible and accountable criminal justice system.

39. In post-conflict settings, UNODC assistance is aimed at building specialized expertise to tackle organized crime and trafficking threats, as well as addressing the lack of basic public service in the justice sector. Post-conflict States, because of their fragility and limited capacity, are particularly vulnerable to illicit trafficking and organized crime. Such trafficking, which may have begun during the conflict or may have even helped sustain the conflict, remains a significant destabilizing factor in the post-conflict and peacebuilding period. A failure to address that challenge is likely to bear long-term consequences and undermine peacebuilding and democratic consolidation. It can also become a source of vulnerability in the respective regions of such States, given the cross-border effects of organized crime and trafficking.

40. In Guinea-Bissau, for instance, the programme entitled “Combating and preventing drug trafficking to and from Guinea-Bissau: promoting the rule of law and the effective administration of justice” combines strengthening of border controls, building specialized expertise within the judicial police to combat trafficking and building capacity to prosecute and sentence traffickers, with support provided for penal reform and measures to improve access to justice. Building on that example, integrated programmes have been developed or are under development for other post-conflict settings. UNODC is participating in the development of a joint United Nations rule of law programme in the Democratic Republic of the Congo. The joint programme, initially implemented together with the United Nations Development Programme Bureau for Crisis Prevention and Recovery and the United Nations Organization Stabilization Mission in the Democratic Republic of Congo, addresses the issues of access to justice and improvement of the judicial practice, integrity and transparency of the justice system, penitentiary reform and support to the judicial police.

41. UNODC, together with the Department of Peacekeeping Operations and the Department of Political Affairs of the Secretariat and the International Criminal Police Organization (INTERPOL), is supporting the Economic Community of West African States (ECOWAS) Regional Action Plan to address the growing problem of drug trafficking and organized crime. A joint programme, the West Africa Coast Initiative, addresses post-conflict situations in West Africa, with the objective of building capacity in the area of law enforcement, forensics, border management, the countering of money-laundering and the strengthening of criminal justice institutions. Implementation has already started in Côte d’Ivoire, Guinea-Bissau, Liberia and Sierra Leone. A key element of the programme is the establishment of specialized transnational crime units. In that context, two standing police capacity officers of the Department of Peacekeeping Operations have been deployed to the UNODC Regional Office for West and Central Africa, in Dakar, to assist in the implementation of law enforcement activities supporting the ECOWAS Regional Action Plan.

42. In February 2010, UNODC hosted an expert group meeting, chaired by the Department of Peacekeeping Operations, to explore and devise a model for a

United Nations criminal intelligence unit, to be deployed to all new United Nations peacekeeping missions at their inception. Such a unit will ensure that the necessary resources to collect, analyse and propose appropriate operational responses to organized crime are in place and operating according to common standards. UNODC, jointly with the Department of Peacekeeping Operations, also published a revised version of the *United Nations Criminal Justice Standards for Peacekeeping Police* in 2009. The handbook is accompanied by a set of commentaries that could provide a useful basis for the development of a training module for police officers to be deployed in peacekeeping missions. In recognition of the threat that organized crime poses to the peacebuilding process and the re-establishment of democratic institutions in countries emerging from conflict, UNODC will continue to provide tailored technical assistance to fragile, failed and post-conflict countries, including by providing policy advice, integrating the suppression and prevention of organized crime into the peacebuilding agenda and strengthening local expertise in the field of rule of law.

## VIII. Improving law enforcement cooperation and inter-institutional coordination

43. The acquisition of knowledge, transfer of skills, acceptance of new ideas and introduction of new procedures are essential elements in supporting capacity-building for law enforcement. The UNODC computer-based training programme, which received a “UN 21 Award”, has remained a cornerstone of UNODC technical assistance delivery, and 11 new areas of the training programme’s curriculum are being developed: asset forfeiture, smuggling of migrants, advanced techniques to counter human trafficking, integrity and ethics, violence against women, identity crime, first responders to a crime scene, crimes against children, trafficking in wildlife, training on HIV/AIDS for law enforcement staff and community policing.

44. UNODC provided training to prosecutors on the use of special investigative techniques to address the increasingly sophisticated modus operandi of traffickers. Expert working groups were convened and manuals were published on current practices in electronic surveillance,<sup>15</sup> while another working group developed international guidelines for States in undertaking threat assessments of serious organized crime and the publication *Guidance in the Preparation and Use of Serious and Organized Crime Threat Assessments*, in cooperation with INTERPOL.

45. UNODC also helped build the capacity of law enforcement agencies to identify and inspect high-risk containers, which can be used for illicit purposes such as trafficking of drugs, weapons, explosives and human beings. UNODC has continued carrying out detailed assessments of container ports. It has promoted cooperation among law enforcement agencies through training workshops and the establishment of inter-agency port control units, which provide for the training of law enforcement officers by customs administrations and allow for direct exchange of operational information. Since 2008, seizures of approximately two tons of

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<sup>15</sup> *Current Practices in Electronic Surveillance in the Investigation of Serious and Organized Crime* (United Nations publication, Sales No. E.09.XI.19).

cocaine, 16 tons of cannabis, 150 kilograms of heroin, 60 kilograms of opium, 92 tons of precursor chemicals and 88 containers filled with counterfeit goods have been reported by participating countries (Cape Verde, Costa Rica, Ecuador, Ghana, Pakistan, Panama, Senegal and Turkmenistan). Cocaine is the largest category, representing 28 per cent of the total number of seizures. UNODC training contributed to strengthening the capacity of authorities to detect not only drugs and precursors but also a wide range of illicit commodities, including endangered species and copyright-protected material. UNODC assistance to control containers is planned to expand to 21 additional countries.

46. Any effective response to addressing organized crime requires effective intelligence analysis. UNODC programme assistance seeks to assist States in making that essential connection to encourage cooperation and coordination. In the reporting period, UNODC helped strengthen intelligence analysis communication between States through initiatives such as the Central Asian Regional Information Coordination Centre, the Gulf Centre for Criminal Intelligence and the West Africa Coast Initiative. These initiatives are examples of technical support that directly facilitates information exchange, generates intelligence through the analysis of that information and directly supports law enforcement operational responses against illicit trafficking.

47. As part of the Santo Domingo Pact, UNODC is establishing a network of Central American prosecutors of organized crime and narcotics cases in collaboration with the Organization of American States and other regional organizations. The objectives of the network are: to serve as a sustainable mechanism for the identification of needs and coordination between regional and international organizations, donors and technical assistance providers in order to systemically address those needs; to provide training in any area related to the work of prosecutors addressing all forms of organized crime and narcotic trafficking; and to share experiences, good practices and information about ongoing cases and trends in the region.

48. UNODC further provided assistance to States to address the links between money-laundering and serious organized crime. UNODC has placed seven mentors and four long-term consultants in various subregions: in Southern Africa, to strengthen asset confiscation procedures; in East and Southern Africa, to build capacity to carry financial investigations; in South-East and Central Asia and the Pacific, to build effective procedures to counter money-laundering and the financing of terrorism; in West Africa, to establish comprehensive regimes to counter money-laundering and the financing of terrorism, with a specific focus on the development and enhancement of financial intelligence units; and in Central America, to build capacity among prosecutors and the judiciary.

49. National financial investigation training courses were delivered in Cambodia, Ecuador, Egypt, Kyrgyzstan and the United Republic of Tanzania, focusing on investigation skills and fostering close working relationships between police and prosecutors. Regional financial intelligence unit analysts courses were delivered in Viet Nam (for the Mekong region), Burkina Faso (for West Africa), Albania (for South-East Europe), Colombia (for South America), India (for South Asia and East Africa) and Morocco (for North Africa) to develop knowledge and skills in the analysis of financial information to detect suspicious transactions related to money-laundering and the financing of terrorism. Mock trial training, a practical

tool using countries' specific legal frameworks, has been used in training for most Latin American countries since 2008 and was replicated in Cambodia in April 2010 and in Kazakhstan in June and September 2010.

50. UNODC also supported the development of informal asset seizure networks, namely the Asset Recovery Inter-Agency Network for Southern Africa and the asset recovery network of the Financial Action Task Force for South America against Money Laundering (GAFISUD), to assist prosecutors and investigators in the identification, tracing, freezing, seizure, confiscation and recovery of proceeds and instrumentalities of crime. In 2009, UNODC issued a manual in Spanish and English on financial instruments that could be potentially misused in money-laundering and financing of terrorism. That document serves as basis for the development of training modules for judges and prosecutors, as well as for the private sector. In joint partnership with the World Bank as part of the Stolen Asset Recovery Initiative, UNODC also issued a number of publications, including a policy paper on strengthening preventive measures for politically exposed persons, a handbook on asset recovery and a study on barriers to asset recovery.

51. Assistance in establishing financial intelligence units pursuant to article 7 of the Convention will remain a priority in technical assistance activities under the Global Programme against Money-Laundering. UNODC will also pursue its effort to strengthen the capacity of national institutions to deliver ongoing training in the field of countering money-laundering and the financing of terrorism to law enforcement officers and prosecutors. Those efforts include assistance to develop curricula and training modules for training in that field in police academies, prosecutors colleges and other relevant national training institutions, as well as the selection and training of national expert trainers such as police academy lecturers and operational specialists, to enhance the specialized expertise of criminal justice officials in the investigation of complex financial crimes, in particular the financing of terrorism. Work of UNODC in the field of countering money-laundering and the financing of terrorism will continue to be supported by technical advisers placed in the field to provide in-depth and long-term assistance in the development and implementation, in the respective jurisdictions, of systems to counter money-laundering and the financing of terrorism. UNODC proposes to develop joint trainings to promote the use of tools and techniques for countering money-laundering and the financing of terrorism in the investigation of human trafficking and smuggling of migrants cases, as well as in cases of piracy and trafficking in cultural property.

52. In a joint partnership with the World Customs Organization, UNODC plans to build the capacity of customs agencies and other border control agencies of selected States to identify and prevent cases of cash being smuggled across borders, which would entail the creation or enhancement of systems and structures for the interdiction and investigation of illicit cash movements, the forfeiture of such funds and the identification of criminal networks involved. The UNODC/World Customs Organization partnership is also aimed at developing regional and international cooperation for the purposes of sharing information and intelligence and conducting joint targeted operations and investigations.

## **IX. Assisting States in the development of programmes for the protection of witnesses and victims of transnational organized crime**

53. The cooperation of witnesses in providing testimonial evidence is crucial to the investigation and prosecution of criminal cases, particularly cases of serious and organized crime. UNODC is providing support to the development and implementation of witness protection laws, measures and special programmes, in order to ensure the protection of at-risk witnesses. In August 2008, UNODC facilitated witness protection modules in a series of training sessions relating to victims and witnesses of trafficking in persons, organized by the United States Agency for International Development and the programme of support for victims of trafficking in persons in Mexico (Proteja) and held in various cities of Mexico for Mexican officials of the Attorney General's Office and the National Human Rights Commission of Mexico. Assistance was also provided to Panama for the development of a witness protection module. In September 2008, an international conference on witness protection was convened in Argentina, aimed at sensitizing officials and civil society about the importance of adopting a comprehensive framework to protect witnesses of serious crimes, including human rights violations.

54. A workshop on witness protection and whistle-blower protection for all Arab States was organized in partnership with the United Nations Development Programme on Governance in the Arab Region in Rabat on 2 and 3 April 2009. The first conference on witness protection for the States of East Africa and other interested African participants was held from 16 to 18 November 2009 in Nairobi, where the International Criminal Court, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone shared their expertise. At a regional conference held in Athens from 26 to 28 January 2010, participants from Mediterranean States considered the protection of vulnerable victims and witnesses under the broader theme of law enforcement responses to the smuggling migrant by sea. As stated above, UNODC has developed a model law on witness protection and a model agreement on international cooperation in the relocation of at-risk witnesses.

55. In Kenya, where the prosecution of serious and organized crimes, including cases of post-election violence, often fails because of a lack of witnesses, UNODC has worked closely with the Government to operationalize the national witness protection programme. UNODC supported the revision of Kenya's witness protection law, which was adopted in April 2010, as well as the drafting of regulations. The expert advisor deployed by UNODC to support the protection programme undertook an assessment of Kenya's technical needs, drafted standard operating procedures for witness protection management, delivered training to programme staff and others, including human rights officials, and arranged for a study visit for Kenyan authorities. Technical assessments of national capacities were also undertaken in Azerbaijan, the Republic of Moldova and the United Republic of Tanzania. In 2010, support for the Kenyan witness protection programme will continue with operational training for recruited staff. A technical needs assessment will be conducted in Georgia, Rwanda and Ukraine, and training in the area of witness protection will be provided for officials from Egypt, Jordan, Kazakhstan and Lebanon.

56. In the reporting period, the area of victim assistance and protection represented a total budget of \$30 million, owing largely to the victim empowerment programme in South Africa being implemented by the UNODC Regional Office for Southern Africa and funded by the European Union, with a total budget of \$26 million over a three-year period. The victim empowerment programme is aimed at building institutional capacity within the Department of Social Development of South Africa, improving coordination and cooperation between government departments and civil society organizations in order to harmonize services to victims of crime, promoting awareness of South Africa's victim empowerment policies and building capacity among civil society organizations to deliver victim empowerment interventions.

57. UNODC proposes to build legal and professional competence and operational skills of judicial and law enforcement practitioners, in order to improve their ability to provide support and protective measures to vulnerable victims and witnesses of criminal offences. Specific technical assistance activities in this regard would include: (a) legislative assistance; (b) design and creation of training curricula and resource materials adapted to each State's context and needs; (c) developing national and regional programmes; (d) facilitating closer cooperation between law enforcement and civil society in the development of programmes to assist and support victims and witnesses of crime, in particular human trafficking; (e) formalizing regional networks of witness protection offices by holding annual meetings to promote cross-border cooperation and information-sharing; (f) facilitating study tours of witness protection officers to States with effective programmes; (g) promoting the development of international cooperation in the exchange of imprisoned witnesses when they cannot be sufficiently protected in the State where they are detained.

58. A greater awareness and use of police, judicial and special measures that can be provided for the support and protection of vulnerable victims and witnesses are complementary to other basic institutional reforms of criminal justice systems. The work of the International Criminal Court and the international tribunals demonstrates that the rights and needs of vulnerable victims and witnesses should not be an afterthought but rather an integral part of investigation and prosecution strategies. UNODC support to States in building effective and efficient criminal justice processes, including victim and witness assistance and protection mechanisms, is a necessary part of ensuring good governance.

## **X. Conclusions**

59. Organized crime and drug trafficking have become major threats to peace and security. Global trafficking networks are having a major impact on democracy and development, on business and finance and on human security. In the light of the serious threats posed by organized crime, efforts to effectively combat organized crime become not only an investment in the development of countries but also an investment in the peace and security of the international community as a whole.

60. Criminal organizations have diversified their activities and become involved in a broader range of crimes such as trafficking in persons, smuggling of migrants, environmental crime, trafficking in cultural property, natural resources, firearms and

stolen cars, fraud, cybercrime and money-laundering. Older crimes, such as kidnapping and piracy, are undergoing a period of resurgence, while new trends such as trade in counterfeit medicines and trafficking in human organs require swift responses to halt their spread.

61. Transnational organized crime, therefore, can be manifested in many different and changing ways. If one crime or a particular market is suppressed, the criminal group will likely seek to exploit a different opportunity. As a result, in order to effectively counter transnational organized crime, Member States must have in place and utilize the full range of legal and law enforcement tools set out in the Convention and its Protocols in order to be able to respond to all forms of criminal conduct and cooperate much more effectively at both the regional and international levels.

62. There is an urgent need for a more integrated and strategic approach to multilateral cooperation to counter transnational organized crime. The UNODC regional programmes provide a common platform for action by regional entities, Member States, the United Nations system and civil society aimed at reducing the impact of criminal networks and illicit trafficking in drugs, persons, arms and natural resources. The regional approach will also help to prevent organized criminal groups in fragile States from spreading to other States.

63. In order to enable all States to respond effectively to the threat of transnational organized crime, technical as well as legal assistance must be made available to all member States that require it. Within the means available, UNODC seeks to provide this technical assistance through a strategic and coordinated approach based on the needs and priorities of recipient States and elaborated through its thematic and regional programmes. As demonstrated, the technical assistance activities of UNODC also reflect the priorities identified by the Open-ended Interim Working Group of Government Experts on Technical Assistance.

64. UNODC proposes to implement, inter alia, the following activities, subject to the availability of funding:

- (a) Enhance the provision of assistance for legislation to counter organized crime;
- (b) Train investigators, judges, prosecutors and other key practitioners of the criminal justice system on the implementation of the Convention and its Protocols and develop good practices for use by practitioners;
- (c) Develop model provisions and accompanying commentary for the implementation of the Convention, which could be organized in modules;
- (d) Intensify legal research and analysis of various forms of serious crime not specifically covered by the Convention and its Protocols;
- (e) Offer individual assistance to States to prepare their self-assessment reports on reporting requirements in relation to the implementation of the Convention and Protocols thereto;
- (f) Provide assistance in accessing and applying software for organized crime analysis, in particular to developing countries;

(g) Strengthen the capacity of national institutions to deliver to law enforcement officers and prosecutors training on countering money-laundering and the financing of terrorism;

(h) Build the legal and professional competence and operational skills of judicial and law enforcement practitioners, in order to improve their ability to provide support and protective measures to vulnerable victims and witnesses of criminal offences.

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