



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

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**Proposals of the Secretariat for technical
assistance activities designed to meet needs
identified in priority areas**

Proposals for technical assistance activities

Background paper prepared by the Secretariat**

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I. Introduction

1. Pursuant to article 30 of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I), States parties are to make concrete efforts to enhance their cooperation with developing countries, strengthen financial and material assistance to support the efforts of developing countries to fight transnational organized crime, and provide technical assistance for the implementation of the Convention. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime is mandated to agree upon mechanisms for facilitating those activities, including by encouraging the mobilization of voluntary contributions (art. 32, para. 3, of the Convention). At its second session, held in Vienna from 10 to 21 October 2005, the Conference decided to establish a working group on technical assistance (decision 2/6) to review the needs of States for technical assistance, provide guidance on priorities, take into consideration the information on technical assistance activities of the secretariat and of States and other entities of the United Nations system and international organizations and facilitate the mobilization of potential resources.

2. During the third session of the Conference, the Open-ended Interim Working Group of Government Experts on Technical Assistance made a number of recommendations, including on the gathering of information on the implementation of the Convention and its Protocols, and identified the following priority areas for technical assistance: (a) criminalization of the offences covered by the Convention and its Protocols; (b) international cooperation in criminal matters and for the purpose of confiscation; and (c) assistance in the establishment or strengthening of central authorities dealing with requests for mutual legal assistance and extradition. The Working Group recognized the need for developing the capacity of States parties to collect data on organized crime and for providing to States parties, at their request, technical assistance to build their capacity to collect and analyse data related to the subject matter of the Convention and its Protocols. Finally, with regard to technical assistance to support and promote the implementation of the Protocols, the Working Group identified the following areas for action: activities regarding the needs of victims, assistance related to the protection of witnesses and regional workshops on trafficking in persons and the smuggling of migrants.

3. The Conference, in its decision 3/4, endorsed the recommendations of the Working Group and requested its secretariat to develop proposals for technical assistance activities designed to meet the needs identified by the Working Group in the priority areas and submit such proposals to the Working Group for consideration at its meeting to be held before the fourth session of the Conference.

II. Gathering information on the implementation of the United Nations Convention against Transnational Organized Crime

A. Background and ongoing activities

4. Pursuant to article 32 of the Convention, the Conference is to periodically review the implementation of the Convention and make recommendations to improve the Convention and its implementation. For that purpose, the Conference is

to acquire the necessary knowledge of measures taken by States parties in implementing the Convention and the difficulties encountered, and each State party is to provide the Conference with information on its programmes, plans and practices and legislative and administrative measures to implement the Convention.

5. The Conference, at its third session, addressed the chronic problem of underreporting by States parties and signatories to the Convention. At its first session, the Conference had requested the Secretariat to collect information from States parties and signatories through questionnaires. Further questionnaires were issued for the Protocols and a second cycle of reporting had been decided on at the second session of the Conference. In its decision 3/1, on the review of the implementation of the Convention and the Protocols thereto, the Conference called upon States parties that had not yet done so to provide all requisite information under the reporting cycles and requested its secretariat to submit to the Conference final consolidated analytical reports. In the relevant discussion at the third session of the Conference, the recurring arguments against the questionnaire method for the collection of information included the number and length of questionnaires, the difficulties encountered in coordinating the national authorities that had to complete the questionnaires and, compounding such difficulties, the fact that many States lacked the human and financial resources to complete the questionnaires. Other States lacked expertise in the most appropriate ways to gather and analyse data. All the questionnaires prepared by the Secretariat and approved by the Conference included a preliminary question requesting States to indicate whether they would require technical assistance to complete them, but almost no State availed itself of that possibility. In general, the rate and quality of responses proved to be low and, in turn, the analytical reports prepared by the Secretariat on the basis of those responses did not enable the Conference to fully address problem areas in implementation and compliance.

6. In endorsing the recommendations of the Working Group (decision 3/4), the Conference drew a clear link between information-gathering and review of implementation on the one hand and the determination of technical assistance needs on the other. The Working Group identified priority areas for technical assistance but recalled, as a preliminary step, that the determination of such needs should be done on the basis of requests received from States parties, using information provided in fulfilment of the reporting obligations under article 32 of the Convention (such as that provided during the two reporting cycles).

7. In its decision 3/1, the Conference requested its secretariat to develop a sample format for the voluntary provision of supplementary information with a view to assisting States parties in undertaking a detailed evaluation of their compliance with specific provisions of the Convention and the Protocols thereto. It also requested its secretariat, in developing the sample format, subject to the availability of extrabudgetary resources, to explore all possibilities of using modern information technology and Web-based applications with a view to ensuring maximum efficiency and effectiveness.

B. Proposals

8. In this context, it is proposed to simplify and enhance the collection and analysis of information so as to build an up-to-date knowledge base on the implementation of the Convention. To measure the impact of technical assistance provided under its guidance, the Conference would need to assess the evolution of implementation of the Convention by States parties, for which purpose it would need to carry out an assessment of the implementation status early in its work so as to establish a baseline against which progress might be measured in the future. Testing different methods and tools to support the work of the Conference would enable the Conference to discharge its functions and ensure the effectiveness of information exchange and the sustainability of implementation efforts. In support of that endeavour, an effort would be made to adopt an integrated approach, one that would take into account all the United Nations crime conventions within its mandate. The ongoing process of establishing a mechanism for the review of implementation under the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) would doubtless provide opportunities for cross-fertilization. The Conference of the States Parties to the United Nations Convention against Corruption, in its resolution 1/1, agreed that it was necessary to establish an appropriate and effective mechanism to assist in the review of the implementation of that Convention; and decided to establish an open-ended intergovernmental expert working group to make recommendations on an appropriate mechanism for the review of implementation. The methodological findings of that process could inform the review of implementation of the Organized Crime Convention and its Protocols.

9. With a view to identifying optimal methods for enhancing information-gathering and the review of implementation, a number of activities have been proposed for consideration by the Working Group; the activities would in turn support the determination of technical assistance needs. The proposed activities may be summarized as follows:

- (a) Identify and support focal points of States parties;
- (b) Re-evaluate and optimize information-gathering tools by developing computer-based applications and a database to support the collection and analysis of information;
- (c) Develop reporting guidelines to improve the quality of reporting on implementation and provide related training;
- (d) Test the efficiency and effectiveness of different methodologies for gathering information on and the reviewing of implementation through pilot programmes with a limited number of States parties that would volunteer to participate.

10. The first step would be to identify, support and maintain channels of communication with focal points of States parties. That would alleviate the problem of national coordination and ensure sustainability and coherence in reporting on implementation efforts. Next, the information-gathering mechanisms should be re-evaluated upon the completion of the current reporting cycles, as requested by the Conference. The experience accumulated thus far points to the conclusion that the

questionnaires have fallen short of expectations. It is thus necessary to move towards a mechanism that increases the overall quality of reporting while ensuring ownership of the process by States parties. Developing reporting guidelines would be a key aspect of such an approach. The guidelines would be a tool designed to simplify reporting obligations by providing a step-by-step approach and indicating clearly the type of information required, the likely source and the format for providing such information to the Conference through the Secretariat. The purpose would be to convert the reporting process from a burdensome obligation into a dynamic exercise that has clear benefits for the authorities involved in terms of knowledge, coordination and informed policymaking. The reporting guidelines would need to supplement and support an appropriate, efficient and user-friendly information-gathering tool. Similar to the self-assessment tool developed by UNODC to collect information on implementation of the Convention against Corruption, computer-based tools for collecting and assessing information on the implementation of the Organized Crime Convention could be considered, including a database to support the collection of information. Training at the national and regional levels on aspects of information-gathering and the review of implementation would also be a key component.

11. The identification of technical assistance needs would be incorporated at every stage of the information-gathering process.

III. Strengthening criminal justice responses to organized crime based on the Organized Crime Convention and the Protocols thereto

A. Background and ongoing activities

12. Criminalization of the offences covered by the Convention and its Protocols is the first of the priority areas identified by the Conference in its decision 3/4, on the recommendations of the Working Group. Domestic legislation should ensure that the offences foreseen under articles 5, 6, 8 and 23 of the Convention, article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex II), article 6 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Assembly resolution 55/25, annex III) and article 5 of the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (Assembly resolution 55/255, annex) are established in domestic criminal legislation. Beyond the establishment of criminal offences, the broader criminal and procedural legislation of a State, in particular the provisions on ancillary offences, sanctions, jurisdiction, investigation, prosecution and international cooperation, need to be reviewed in order to ensure that the criminalization provisions can effectively be applied. Additional action, such as the establishment and resourcing of effective enforcement strategies, the development of institutional capacity and personnel or, in the case of trafficking in persons, support and protection measures for trafficked persons as victims of crime, may also

be necessary in order to operationalize the criminalization of offences provided for under the Convention and its Protocols. Supporting the implementation of a fully effective criminal justice response to the substantive issues addressed by the Convention and its Protocols thus involves a broad spectrum of support for the criminal justice system.

13. For legislative assistance to be successful, it needs to be based on a comprehensive assessment of national legislation, administrative rules and procedures and the policy or strategies in place. Such an assessment would provide the basis for recommendations on the amendments needed to bring such laws, rules, procedures and policies in line with the requirements of the Convention and its Protocols. Working contacts with national officials should be established in order to ensure direct cooperation. Given the strong links that exist between legislation directly implementing the provisions of the Convention and other procedural and substantive law, legislative assistance should be viewed from a holistic perspective. Legislative assistance provided for the implementation of the Convention should take into account the implementation of other United Nations crime conventions, for instance, in the areas of corruption and drug control – and, in certain cases, regional instruments – in order to ensure consistent legislation that is compliant with all the applicable instruments.

14. In providing advice and assistance on criminalization issues, care should be taken to adopt a balanced, long-term approach. In an effort to address the internationally perceived lack of action on an organized crime issue, one State mounted an enforcement campaign that resulted in the high-profile prosecution and conviction of marginal actors but had little long-term impact on the activity of the organized criminal groups. Similarly, many States that have criminalized trafficking in persons do not provide effective protection or support for victims, leading to further victimization of trafficked persons and yielding limited results in terms of conviction rates.

15. Legislative assistance should also include follow-up advice and support to ensure the enactment and entry into force of domestic legislation and, most importantly, should take into account the need for accompanying assistance to put in place appropriate implementation arrangements. Follow-up assistance could include the collection, dissemination and analysis of operational information on trends in organized crime; the carrying out of technical needs assessments; the drafting of national action plans and strategies, awareness-raising of relevant actors and institutions; capacity development of law enforcement, prosecutorial and judicial officials to apply new legislation; the conception and design of training curricula and resource materials on issues related to implementation of the Convention and the monitoring of planned activities; and the making available of mentors and criminal justice advisers to Member States upon request. Assistance could also include encouraging States to make greater use of the Convention as a legal, policy and procedural basis for cooperation in criminal matters.

16. The experience of the United Nations Office on Drugs and Crime (UNODC) has shown that technical assistance to build capacity to implement legislation is a crucial follow-up to legislative assistance. National responses to combat trafficking in persons, for example, have been most successful where criminal justice resources have been mobilized in support of legislation and matched by a commitment to uphold and support the legal and human rights of victims. The work of UNODC

over the past four years in Viet Nam contributed to a significant rise in 2006 in arrests of traffickers and the rescue of victims; ongoing work in India has shown similarly promising trends. Proposed activities on implementing criminal justice responses to organized crime based on the Convention and its Protocols may be summarized as follows:

- (a) Respond to requests and expand legislative assistance to individual States;
- (b) Develop model legislation on key areas of transnational organized crime;
- (c) Develop an international model law and regulations on witness protection;
- (d) Build capacity in witness protection procedures and practice through ongoing projects in the Caucasus, and implement new projects in Latin America, South-east Europe, and Asia and the Pacific;
- (e) Develop a joint training programme with the International Criminal Court to strengthen witness protection in Africa;
- (f) Foster bilateral and multilateral cooperation in the relocation of witnesses through the development of a model relocation agreement;
- (g) Develop vetting procedures for specialized witness protection units and other specialized law enforcement and prosecuting units.

B. Proposals

1. Individual legislative assistance

17. As the custodian of the international instruments against transnational organized crime, the Secretariat possesses a comparative advantage for delivering high-quality advice on the ratification and implementation of the instruments, using a holistic approach. The Secretariat plans to build on its accumulated experience in that area and expand its activities in individual legislative assistance.

18. The responses to the questionnaires for the first and second reporting cycles and the individual requests received by the Secretariat have made it possible to identify some of the technical assistance needs of States parties and signatories. In their responses to the questionnaires, Algeria, China, Costa Rica, the Czech Republic, the Dominican Republic, Ecuador, El Salvador, Jamaica, Malaysia, Maldives, Mauritius, Nigeria and South Africa indicated their needs for legislative assistance. The areas identified included cybercrime, money-laundering, international cooperation, confiscation, mutual legal assistance, trafficking in persons and smuggling of migrants.

19. The Secretariat also received a number of individual requests, including those from Benin, Guinea-Bissau, Kenya, Mongolia, Paraguay, Romania and Sri Lanka. The establishment of working contacts or ongoing relations resulted in activities being planned in Angola, Cape Verde, Guinea-Bissau, Mozambique, Panama, Sao Tome and Principe and Suriname. The Secretariat provided legislative assistance to a number of States parties, including Angola, Armenia, Azerbaijan, Cape Verde, Costa Rica, Ecuador, Equatorial Guinea, Georgia, Ghana, Guatemala,

Honduras, Mozambique, Panama, Peru and Sao Tome and Principe, and it conducted a number of pre-ratification assistance activities.

20. The UNODC field office network has also been instrumental in identifying the assistance needs of States and in formulating priorities by way of such documents as the strategic programme frameworks, which are joint operational workplans of UNODC and its counterparts.

21. In addition to the formal requests received from Member States for specific assistance, there are a number of other means by which UNODC identifies and responds to technical needs related to the Convention and its Protocols. For instance, the UNODC field office network interacts with counterparts constantly and at all levels; UNODC advisers and mentors work directly with Governments; and UNODC experts undertake technical needs assessments in response to requests from Member States. The expansion of UNODC outreach offers opportunities to provide various kinds of technical assistance immediately and directly to those who might benefit most. Furthermore, as one component of the work of UNODC, forms of assistance regarding the Convention may be provided in the context of a broader programme, such as the integrated work by UNODC in the area of the rule of law.

2. Model legislation on transnational organized crime

22. The delivery of legislative assistance could be supported by tools that take into account the diversity of legal systems and traditions and reflect the experience and expertise accumulated in the area. In their responses to the questionnaires, some States parties indicated that model legislation was a useful tool, as shown by the work of UNODC on model legislation to implement the drug control treaties and model legislation on extradition and on mutual legal assistance. The Secretariat plans to develop model legislation on the implementation of the Convention, which would entail the establishment of an expert group to determine the scope and methodology of the model legislation and to review draft model provisions. The expert group could draw on the experience of other international and regional organizations that have already developed model laws directly relevant to the issues dealt with in the Convention.

3. Witness protection

23. In its decision 3/4, the Conference noted that assistance for the implementation of provisions on witness protection was an area covered not only by the Protocols but also by the Convention. The ability to protect witnesses who participate in criminal proceedings was a key element in the fight against all forms of organized crime, including trafficking in persons. In the broad sense, the term witness protection refers to procedural measures and security in the courtroom, security outside the courtroom and the more drastic measures provided by a specialized witness protection system, such as identity change and relocation.

24. UNODC has achieved a number of accomplishments in that area but much more could be done. A series of regional expert group meetings (held in Mexico City in November 2005, in Bangkok in June 2006 and in Vienna in November 2006) sought to raise awareness with regard to victim/witness protection measures, procedural protection and the measures and uses of formal witness protection programmes. The expert group meetings also served to promote the

exchange of good practices among practitioners and authorities for the drafting of the Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime. Building on the work carried out thus far, current plans include developing new training modules for law enforcement and judicial authorities to assist in the establishment of witness protection measures and programmes. That training would address key elements of a good witness protection programme, such as the need for procedures to vet all personnel involved and mechanisms to ensure the confidentiality of information.

25. At the request of a number of Latin American countries subsequent to the 2005 expert group meeting on witness protection for Latin America, a follow-up meeting was held in 2006 at which a model witness protection law for Latin America was developed. The model law developed by and for Latin American countries could provide the basis for an international model law on witness protection. UNODC also envisages preparing model regulations to be launched as part of a comprehensive legal and operational witness protection toolkit together with guidelines on good practices.

26. UNODC has provided drafting advice and assistance for witness protection laws in Armenia, Azerbaijan, Georgia, Guatemala, Honduras, Panama and Peru. It has received assistance requests from other States, including Kenya, Paraguay, Romania and Sri Lanka, but has not been able to fulfil those requests owing to a lack of resources. The work in Honduras was carried out jointly with the Organization of American States and resulted in the adoption of a new law by the Government.

27. With respect to operational capacity, UNODC has provided training for States in understanding all the forms of witness protection and in the more specialized aspects of establishing witness protection units. Training events were held in Georgia, Guatemala and Panama.

28. With respect to international cooperation in this area, UNODC would continue to cooperate with other competent United Nations entities and international organizations in the implementation of witness protection and victim assistance programmes.

29. In October 2007, UNODC would co-host a conference with the Ibero-American Association of Public Prosecutors to discuss the international relocation of protected witnesses and assistance for victims and witnesses. A UNODC regional training workshop would be held in November 2007 for South-east Europe and the Caucasus in collaboration with other international organizations. In addition, the International Criminal Court has asked UNODC to partner with it in a joint programme on witness protection in Africa.

IV. International cooperation and the establishment or strengthening of central authorities for mutual legal assistance and extradition

A. Background and ongoing activities

30. Efforts to ensure the effective implementation of the international cooperation provisions of the Organized Crime Convention constitute a substantive component of the programme of work of the Conference. In its decision 2/2, the Conference decided to establish an open-ended working group to hold substantive discussions on practical issues pertaining to extradition, mutual legal assistance and international cooperation for the purpose of confiscation.

31. The open-ended working group was convened for the first time during the third session of the COP Conference and, on its recommendation, the Conference adopted decision 3/2, on the implementation of the international cooperation provisions of the Convention. In the decision, the Conference called for greater use of the Convention as a legal basis for international cooperation in criminal matters, institutionalized the working group on international cooperation as a constant element of the Conference, and requested the Secretariat to organize regional workshops for central and other competent authorities, liaison magistrates and judges, prosecutors and practitioners in charge of international cooperation cases, with a view to facilitating exchanges among counterparts and promoting awareness and knowledge of the mechanisms for international cooperation under the Convention.

32. In the same decision, the Conference requested the Secretariat to ensure that an online directory of central authorities be set up as a matter of priority. The directory should contain not only contact details of such authorities but also an optional field allowing States to provide additional information, such as summaries of legal and procedural requirements, links to national laws and relevant websites, a list of treaties on bilateral and regional cooperation concluded by those States or any alternative arrangement available in respect of extradition or mutual legal assistance.

33. In the same decision, the Conference also requested the Secretariat to provide its support to the building up of a virtual network of central and other competent authorities to facilitate communication and problem-solving among such authorities, by considering the setting up of a discussion forum on a secure network.

34. In the same decision, the Conference requested further the Secretariat to compile a catalogue of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Convention in order to encourage States parties to improve their implementation of the pertinent provisions of the Convention.

35. In seeking the most efficient way to give practical effect to decision 3/2 of the Conference, the Secretariat began implementing that decision by forming an open-ended steering committee, which held its first meeting in Vienna on 7 and 8 June 2007. The Steering Committee brought together representatives of States having extensive experience in the area of international cooperation in criminal matters. It

was established with the specific aim of providing assistance and guidelines for the preparation of the regional workshops on international legal cooperation and, generally, providing an enabling environment for compliance with the mandates contained in Conference decision 3/2. The second meeting of the Steering Committee would be held in conjunction with the meeting of the Open-ended Interim Working Group of Government Experts on Technical Assistance on 2 October 2007.

B. Proposals

36. In view of the foregoing and pursuant to decision 3/4 of the Conference, on the recommendations of the Open-ended Interim Working Group of Government Experts on Technical Assistance, the Secretariat developed, for the consideration of the Working Group, a series of proposals for technical assistance activities designed to foster international cooperation in criminal matters under the Convention and enhance the efficiency of central and other competent authorities of States parties and signatories to the Convention to handle requests for such cooperation. The activities proposed in this area may be summarized as follows:

(a) Provision of legal expertise and legislative assistance to Member States for the effective implementation of the international cooperation provisions of the Convention:

(i) Provide legal assistance or advice or expertise to Member States to ensure compliance with requirements of the international cooperation provisions of the Convention;

(ii) Provide good offices and expertise to requesting Member States to assist them in handling complex cases of international cooperation in criminal matters;

(iii) Provide practical legislative advice and assistance in legislative drafting, including through the use of model legislation on extradition or mutual legal assistance or other modalities of international cooperation; advisory missions; consultancies;

(iv) Provide practical guidance on how to overcome difficulties encountered in bank secrecy restrictions and fiscal matters associated with extradition and requests for mutual legal assistance;

(b) Promotion of international cooperation through capacity-building and the development of technical assistance tools and materials:

(i) Organize regional and, where appropriate, interregional workshops on international legal cooperation for central authorities, liaison magistrates and judges, prosecutors, practitioners and officers involved in international law enforcement cooperation, with a view to promoting awareness and knowledge of the mechanisms for international cooperation under the Convention;

(ii) Support the work of the Steering Committee established to provide assistance and guidelines on capacity-building issues;

- (iii) Organize relevant study tours to UNODC headquarters for professionals involved in matters pertaining to international cooperation;
 - (iv) Expand collaboration with training centres or institutes working in partnership with UNODC with a view to exchanging training experiences and tapping their expertise in the conduct of training courses and workshops;
 - (v) Compile a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international cooperation on the basis of the Convention and cases based on reciprocity;
 - (vi) Develop best practice guidelines for extradition and mutual legal assistance, in particular for the purpose of confiscation, and collect information on the main obstacles encountered and solutions found;
 - (vii) Develop, refine, update and disseminate working tools to facilitate the drafting of requests for international cooperation;
 - (viii) Prepare manuals on other forms of international cooperation, such as for the transfer of criminal proceedings, transfer of prisoners, international cooperation for purposes of confiscation, joint investigations and cooperation in the use of special investigative techniques;
 - (ix) Update existing training materials or tools (for instance, the manual on model treaties on extradition and mutual assistance in criminal matters) and, where appropriate, develop new tools; provide translations into the other official languages of the United Nations; organize expert group meetings;
- (c) Establishment or strengthening of central or other competent authorities for international cooperation in criminal matters and enhancing working contacts with them:
- (i) Assist Member States in establishing central authorities;
 - (ii) Set up an online directory containing the contact details of the central or other competent authorities for international cooperation in criminal matters and relevant additional information;
 - (iii) Build up a virtual network of central authorities responsible for mutual legal assistance and authorities handling requests for extradition to serve as a discussion forum on a secure network;
 - (iv) Select cases from that virtual network that could be used for best practices;
 - (v) Promote further partnerships with the European Police Office (Europol), Interpol and other regional organizations for practical cases.

37. The proposals are grouped into three separate categories in such a way as to include the whole range of assistance that could be provided to States with a view to improving their capacity in the area of international cooperation. The first category of proposals is associated with the provision of legal expertise and legislative assistance to Member States. Such assistance could take the form of either ad hoc expertise provided to States to help them implement the relevant provisions of the Convention or support for developing domestic legislation on international cooperation in criminal matters to that effect. The methodology to be followed

could include ad hoc advisory missions or consultancies or the use and promotion of available United Nations models or guiding tools (such as model treaties, model laws, reports of working groups and the Mutual Legal Assistance Request Writer Tool).

38. The second category is linked to capacity-building activities and mainly relates to the organization of regional or where appropriate, interregional workshops on international legal cooperation under the Convention, as mandated by decision 3/2 of the Conference, and to the development of technical assistance tools and materials. In general, it is envisaged that at the forefront will be action to support the work of the Steering Committee, which, as mentioned above, was established to provide assistance and guidelines on capacity-building issues.

39. The workshops would be designed to cover the needs of central authorities, liaison magistrates and judges, prosecutors and practitioners involved in international cooperation in criminal matters. The objectives of the workshops, as thoroughly discussed at the Steering Committee, would revolve around ensuring that central and other competent authorities designated under the Convention establish close working contacts, promoting knowledge of the mechanisms and potential of the Convention in the area of international cooperation in criminal matters, and providing a platform for discussing ways and means of fulfilling related mandates under decision 3/2 of the Conference, such as the online directory and virtual network of central authorities and the compilation of cases. The workshops would be expected to address practical aspects and difficulties encountered in daily practice in international cooperation. In general terms, they would be oriented towards institution-building to ensure the continuity, consistency and sustainability of the training process.

40. The potential interregional scope of the workshops might also be explored. The members of the Steering Committee highlighted that regional workshops focused on closer cooperation within the region, whereas interregional workshops could promote the application of the Convention between countries on different continents and regions and thus provide an added value. In that regard, the common understanding was that the circumstances in each region should be examined to determine which type of workshop could be conducted.

41. As of the present writing, initial arrangements and consultations had been made for the organization of three regional workshops: one for Latin America and the Caribbean, to be held in Bogota from 12 to 14 September 2007; one for Central and East Asia, to be held in Kuala Lumpur from 14 to 16 November 2007; and one for Arab countries, to be held in Cairo from 4 to 6 December 2007, in cooperation with the League of Arab States.

42. The outcome and follow-up of the workshops would be reported to the Conference, through its working group on international cooperation, at its fourth session, in 2008. The specific recommendations resulting from those workshops would be submitted to the Conference for its consideration.

43. Training activities other than those related to the regional workshops mandated by decision 3/2 of the Conference could include study tours for professionals involved in international cooperation practice and training workshops aimed at meeting the needs of law enforcement authorities and strengthening their capacities

to deal effectively with requests for law enforcement cooperation pursuant to article 27 of the Convention.

44. The second category also includes proposals for the development of technical assistance tools and materials. Building on the experience accumulated over the years in the area of international cooperation in criminal matters, the Secretariat is already in a position to make available to Member States a number of model tools and training materials pertaining to different aspects and designed to cover various needs in this area, such as model treaties on extradition and mutual assistance in criminal matters and a manual on their content, a model bilateral agreement on the sharing of confiscated property or proceeds of criminal activity, model laws on extradition and mutual assistance in criminal matters, and the Mutual Legal Assistance Request Writer Tool. Action could be envisaged to ensure the refining and updating of those tools to keep up with new developments or their wider dissemination among Member States, including through their translation into all the official languages of the United Nations.

45. The various modalities of international cooperation in criminal matters provided for in the Convention necessitate further action geared towards developing new tools and training materials on matters related to such forms of cooperation as the transfer of criminal proceedings, the transfer of prisoners, international cooperation for purposes of confiscation, joint investigations and cooperation in the use of special investigative techniques. The organization of expert group meetings could be pursued to that end.

46. Pursuant to decision 3/2 of the Conference, a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international cooperation on the basis of the Convention is to be compiled. Similarly, cases of international cooperation based on the principle of reciprocity could also be compiled. The objective would be to provide to States parties a set of standards and guidelines to assist them in further promoting the implementation of the pertinent provisions of the Convention. Furthermore, action could be pursued towards developing best practice guidelines for extradition and mutual legal assistance, in particular for the purpose of confiscation, and towards collecting information on the main obstacles encountered in related proceedings and the solutions found to overcome them.

47. The third category of proposed technical assistance activities focuses on the need to help Member States that lack the capacity to establish central or other competent authorities for international cooperation in criminal matters. Technical assistance would include providing expertise aimed at strengthening the effectiveness of such authorities and enhancing working contacts and close cooperation among them. Of relevance in that regard is mainly the action of the Secretariat to implement the part of decision 3/2 of the Conference that refers to the setting up of an online directory for central authorities responsible for mutual legal assistance and authorities dealing with requests for extradition, the transfer of sentenced persons and cooperation under the Migrants Protocol (art. 8, para. 6), and the building up of a virtual network of such authorities to serve as a discussion forum on a secure network. The network could also constitute a useful source for selecting cases that may be used as best practice material in training activities. Finally, efforts could be devoted to promoting cooperation, areas of synergy and partnerships with other international and regional organizations, including Europol

and Interpol, particularly with regard to the compilation of practical cases and their analysis for training purposes.

V. Assistance for developing capacity to collect data on organized crime

A. Background and ongoing activities

48. Under article 32 of the Convention, the Conference is mandated to facilitate the exchange of information among States parties on patterns and trends in transnational organized crime and on successful practices for combating such crime.

49. In its recommendation II.3, the Working Group recognized the need for developing the capacity of States parties to collect data on organized crime and for providing to States parties, at their request, technical assistance to build their capacity to collect and analyse data related to the subject matter of the Convention and the Protocols thereto.

50. Governments need to have the ability to collect and analyse information on crimes related to the Convention and its Protocols in order to develop informed policies, create responsive operational strategies and allocate resources appropriately. Some Member States, however, may not have adequate criminal justice records systems or systems that allow the sharing of information among institutions.

51. Data on the nature and extent of issues related to organized crime can be derived from a variety of sources within the criminal justice system. Those sources include the investigating or prosecuting authorities; judicial, probation and prison authorities; and non-governmental organizations that provide support services to victims and rehabilitation for perpetrators. Information may be collected at the national and local levels in countries with decentralized legal systems.

52. Accurate criminal justice record-keeping and case management systems allow for the tracking and management of cases between criminal justice sectors (judicial, probation, prison, prosecuting, and police or investigating authorities). Such systems provide capacity for organizational management whereby performance indicators can be judged and they provide transparency. Examples of important management indicators are the determination of how long specific cases take from arrest to completion, how many cases are handled by each judge or prosecutor in a given period and the time flow of cases between law enforcement, prosecutors and judges.

53. UNODC launched the Data for Africa programme in October 2005 to assist African States and the international community in improving their monitoring and understanding of drug and crime problems and trends in Africa and their links with socio-economic development.

B. Proposals

54. The records systems of police authorities are often the main source of crime information. To be useful for purposes of data analysis, incident, crime and arrest reports must contain sufficient information on the details of the event. There is considerable scope for using incident figures to inform police operations (such as through the use of geographic information system plotting). UNODC could be of assistance in developing such capacity. Conventional crime statistics alone are of limited value in describing organized crime. The ability to properly analyse such data requires training. Here as well, UNODC could provide assistance. In the area of providing assistance for developing capacity to collect data on organized crime, the proposed activities may be summarized as follows:

(a) Establish systems for the development of incident, crime and arrest reports;

(b) Provide training for the proper analysis of crime data;

(c) Develop integrated systems of crime and criminal justice statistics;

(d) Build capacity and share best practices on the collection and analysis of specific data relevant to the criminal justice response to trafficking in persons and on the vulnerability, awareness and perceptions of the population at risk of trafficking and smuggling in specific countries;

(e) Develop guidelines for the vetting of law enforcement and prosecuting officials who come into contact with sensitive information in order to establish trust and capacity for the sharing of information.

55. UNODC could also provide technical assistance to develop integrated systems of crime and criminal justice statistics (for instance, through the provision of training based on the *Manual for the Development of a System of Criminal Justice Statistics*).¹ Specific assistance may be required to collect data on the forms and modus operandi of organized crime, trafficking in persons and smuggling of migrants. UNODC could help to build capacity and share best practices on the collection and analysis of specific data relevant to the criminal justice response to trafficking in persons. UNODC could also assist in developing capacity to collect survey data on the vulnerability, awareness and perceptions of the population at risk of trafficking and smuggling in specific countries, which could result in important policy information. UNODC could be called upon to provide assistance to Member States that wish to develop integrated criminal justice records systems and that need to build their capacity to analyse such data.

56. A key element in combating transnational organized crime is the regional and international sharing of information, hence the need for mechanisms whereby this information can be easily and regularly shared. Where possible, UNODC promotes and facilitates such information exchanges, including with other organizations such as Europol, Interpol and the World Customs Organization. Systems need to be in place, in particular at the regional level, whereby officials who obtain and analyse such information have undergone established vetting processes so that there is trust between officials in the sharing of information. UNODC is in a position to develop

¹ United Nations publication, Sales No. E.03.XVII.6.

guidelines for the vetting of law enforcement and prosecuting officials who come into contact with sensitive information.

VI. Assistance regarding the implementation of the Protocols to the Organized Crime Convention

A. Background and ongoing activities

1. Technical assistance programme with regard to the Trafficking in Persons Protocol

57. UNODC has been assisting States in responding to trafficking in persons since 1999. It currently provides assistance to more than 60 States globally, through 21 technical projects and in response to ad hoc requests.

58. UNODC technical assistance is premised on the underlying need to adopt a comprehensive approach to trafficking in persons and involves coordinated action on multiple fronts. Consistent with the medium-term strategy and published regional strategy documents of UNODC, the priority areas currently addressed by UNODC are as follows:

(a) Pre-ratification assistance, including assessment of any existing relevant legislation, evaluative reporting on the requirements for ratification, and consultation with and advising of multiple parties on implementation;

(b) Criminal justice system responses, including support for the adoption of necessary legislation and the establishment of related institutions, special police units and prosecutorial structures, the provision of legislative assistance and tools, such as legal guides and model legislation, and the training of criminal justice practitioners including developing and providing specialist training materials;

(c) Victim protection and support, including assisting in the review and revision of domestic legislation on support and protection of victims, developing identification and referral practices, supporting housing, physical, psychological, social, employment and educational assistance for 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;

(d) Policy development, including analysing and developing national policymaking and coordination mechanisms to facilitate and coordinate all activities conducted under the Protocol, produce viable national action plans supported by a national inter-agency coordination mechanism, provide the assistance needed to implement such policies and collect and disseminate best practices on all specific aspects of the comprehensive response required;

(e) International cooperation, including fostering cooperation among officials of different States in carrying out investigation, prosecution, prevention and victim/witness protection action (including regional action plans) by enabling effective information exchange and joint action to combat trafficking in persons;

(f) Prevention and awareness-raising, including information campaigns, data collection and analysis, awareness-raising of policymakers, criminal justice practitioners and other authorities, and long-term prevention methods, such as creating employment and education opportunities for groups at risk and victims of trafficking in persons (to lessen the likelihood of such trafficking);

(g) Coordination of technical assistance.

2. Technical assistance programme with regard to the Migrants Protocol

59. The technical assistance provided by UNODC with regard to the smuggling of migrants is based on the understanding that tackling the issue of migrant smuggling necessitates a comprehensive, multi-stakeholder response that ranges from addressing the socio-economic root causes of irregular migration to ensuring the safety and dignity of smuggled migrants during the return process. The resulting strategy must include but not be limited to strengthening the criminal justice response. From a criminal justice perspective, the challenge is to dismantle smuggling networks and address the conditions that allow them to flourish while protecting the rights of smuggled migrants.

60. UNODC has placed its focus thus far on developing an information base, especially on the involvement of organized criminal groups and their modus operandi, to allow the informed delivery of technical assistance to Member States in implementing the Migrants Protocol. Centring on the Middle East, North Africa and West Africa, those activities have included field and desk research. Furthermore, at the Euro-African Ministerial Conference on Migration and Development, held in Rabat in July 2006, UNODC launched the IMPACT-Initiative to assist Member States in addressing the smuggling of migrants from Africa to Europe. Under the IMPACT-Initiative, UNODC has developed a comprehensive technical assistance programme for North Africa and West Africa that consists of six technical components: legislative development; policy development and institutional capacity-building; human capacity-building; international cooperation; data collection and analysis; and awareness-raising. Depending on the availability of financing, programme implementation will begin in late 2007.

3. Technical assistance programme with regard to the Firearms Protocol

61. UNODC is assisting States in assessing their capacity to implement the Firearms Protocol and the effectiveness of measures taken to that end. The findings of those assessments are used to identify further assistance needs. Legal and technical assistance is also available to States to enable them to meet the basic requirements of the Firearms Protocol and to build and strengthen the capacity of law enforcement and criminal justice agencies to combat the trafficking in and illicit manufacturing of firearms. To support the effectiveness of export, import and transit controls over firearms consignments and foster cooperation between law enforcement authorities to take action against attempts at illegal entry or export, UNODC is assisting in the development of regional information exchange mechanisms. In addition, UNODC is working with Member States to identify key partners in civil society and among non-governmental organizations to raise public awareness of the social and economic consequences of the proliferation of illicit firearms and the importance of ratifying the Firearms Protocol.

B. Proposals

1. Technical assistance with regard to the Trafficking in Persons Protocol and the Migrants Protocol

(a) Technical assistance programme with regard to the Trafficking in Persons Protocol

62. As mentioned above, UNODC utilizes a comprehensive modular technical assistance framework to assist States in combating trafficking in persons based on the needs of the State. It is important for two reasons that UNODC continue and expand its activities to offer assistance in all the priority areas delineated above. First, the situation with regard to trafficking in persons and, accordingly, the weaknesses in national responses vary greatly from country to country. Second, experience has confirmed that the comprehensive approach supported by the Trafficking in Persons Protocol, which incorporates a number of parallel actions to be undertaken in a country, represents current international best practice in responding to trafficking in persons. As shown by the two-stage assistance programme of UNODC in the region of the Economic Community of West African States, focusing on assisting in the development of strategies and action plans is of limited value in the absence of assistance for the related capacity- and institution-building to give effect to such policies. Proposed activities in the area of providing assistance regarding the implementation of the Trafficking in Persons and Migrants Protocols may be summarized as follows:

(a) Develop the capacity of Member States to collect data on organized crime;

(b) Provide of legal assistance, advice and expertise to Member States to draft and enact domestic legislation to implement the Protocols, including practical legislative advice and assistance in legislative drafting through advisory missions or consultancies;

(c) Finalize of ongoing work on the development of model legislation for the implementation of the Trafficking in Persons Protocol, including through the organization of additional expert group meetings;

(d) Develop model legislation for the implementation of the Migrants Protocol;

(e) Develop assessment toolkits on the response of the State to trafficking in persons and the smuggling of migrants;

(f) Provide training for criminal justice actors on issues related to implementation of the Protocols, including the development of advanced training manuals and the expansion of the computer-based training programme;

(g) Organize regional or subregional workshops and meetings on issues pertaining to implementation of the Protocols, especially with regard to enhancing coordinated regional awareness and action;

(h) Develop model national strategies that provide victims with legal rights and practical options regarding both repatriation and the right to stay in the country of destination;

(i) Collect and make available to States parties successful practices, tools and mechanisms concerning trafficking in persons and the smuggling of migrants with respect to:

- (i) Investigations of offences covered by the Protocols;
- (ii) Protection and assistance measures for victims of trafficking in persons;
- (iii) Protection of the rights of smuggled migrants;
- (iv) Training and capacity-building;
- (v) Awareness-raising strategies and campaigns;

(j) Develop practical guidelines for use by national competent authorities in identifying victims of trafficking for labour exploitation in cooperation with the International Labour Organization, the International Organization for Migration and other relevant international organizations.

63. In supporting a comprehensive strategy to address the issue, UNODC needs to continue to develop varied conceptual, legislative and organizational tools to provide practical assistance to those responding to trafficking in persons at the working level. The production of generic materials for practitioners, such as model provisions to combat trafficking in persons, advanced specialized training manuals for judges and prosecutors or a set of assessment tools, allows for adaptation to and application in different languages, cultures and countries. UNODC continually seeks to identify, develop and provide to practitioners the tools and best practices that will have the strongest impact on their work and, more importantly, on the lives of victims and on the activity of traffickers.

64. Within the framework of the Trafficking in Persons Protocol, UNODC offers practical help to all States for the development of a comprehensive national approach to trafficking in persons. That includes the need not only to prosecute traffickers but also to support and protect victims.

65. Given that most aspects of the Trafficking in Persons Protocol affect victims of trafficking in persons, a victim-centred approach is reflected in all UNODC technical assistance regarding such trafficking. UNODC has piloted activities for victim protection mechanisms and comprehensive victim services and seeks to incorporate elements of those activities in all its technical assistance projects.

66. UNODC has provided limited technical assistance to date regarding article 7 (on the status of victims in receiving States) and article 8 (on repatriation) of the Trafficking in Persons Protocol. Those provisions, however, are fundamental to securing convictions for trafficking in persons and to providing for witness protection. In seeking to support more actively the implementation of those articles, consideration needs to be given to two factors: (a) the need to develop measures providing for victims to remain in destination countries in conjunction with measures pertaining to repatriation, as a meaningful acknowledgement of the realities faced by victims, those who assist them and the law enforcement and prosecution agents who pursue related criminal activities; and (b) the relative merit of UNODC providing technical assistance to key destination countries of trafficking in persons. The current technical assistance work of UNODC includes the provision of direct support to non-governmental organizations that assist victims of such trafficking. Many forms of such assistance are provided in the absence of any

substantive rights of the victims at the national level pursuant to article 7 of the Trafficking in Persons Protocol. In that regard, consideration should be given to encouraging Member States (and providing the necessary technical assistance) to fully implement article 7 and make available to victims the requisite legal and practical options, in recognition of the fact that remaining in the destination country may be in the best interests of the victim.

67. As part of a regional technical assistance project, UNODC is organizing in cooperation with the Organization of the Black Sea Economic Cooperation (BSEC) a regional conference on trafficking in persons to be held in mid-2008. The conference will follow on earlier working-level workshops and will bring together representatives of countries of origin, transit and destination from that region with the purpose of fostering bilateral and multilateral cooperation between the BSEC member States, facilitating the transfer of expertise and best practices among the BSEC member States and providing guidance for further action concerning trafficking in persons in the area of the Black Sea at the national and regional levels.

68. Provided that the necessary funding is secured, the Black Sea initiative is expected to serve as a model for similar UNODC regional activities pertaining to trafficking in persons, from 2008 onwards.

69. The technical assistance project entitled the “Global Initiative to Fight Human Trafficking” was initiated in 2007. Its expected outputs include the development of tools for assessment, capacity-building and victim assistance, inter alia, to assist and strengthen Member States in their efforts to combat trafficking in persons. Within the framework of the Initiative, a forum to raise awareness and facilitate cooperation and partnerships among the various stakeholders is to be held in Vienna in February 2008. The forum will bring together representatives of Member States, United Nations agencies and other international and regional organizations and will be open to relevant non-governmental organizations. The Initiative will also strengthen the ongoing priority work of the Global Programme against Trafficking in Human Beings of UNODC.

(b) Technical assistance with regard to the Migrants Protocol

70. Research by UNODC has identified a number of shortcomings in implementation of the Migrants Protocol. Policies that aim to reduce the smuggling of migrants must be at least regional in scope. They must be comprehensive, consistent and anticipatory in order to be effective; that is to say, the criminal justice response to the smuggling of migrants has to be embedded in a wider policy that recognizes and addresses the “push and pull” factors of migration. In addition to focusing on borders, law enforcement policies must address the demand for illegal labour in the countries of destination and aim at dismantling the networks that profit from the smuggling of people in the countries of transit and origin. When designing such policies upholding human rights and protecting the safety and lives of migrants must be central.

71. With regard to the crime-related aspects of the smuggling of migrants, the priority areas in which UNODC seeks to provide technical assistance are as follows:

(a) Fostering political and public commitment through regional events and awareness-raising campaigns, as the lack of commitment constitutes a serious obstacle to addressing the smuggling of migrants. It is common for not only the

general public but also relevant authorities to fail to perceive the smuggling of migrants as a criminal activity that poses serious risks to the migrants and to the societies concerned;

(b) Bringing national legislation in line with the Migrants Protocol through the provision of legislative assessment tools and model legislation. Although 107 States have ratified the Migrants Protocol, domestic legislation often falls short of the requirements of the Protocol and many States lack the capacity to fully adapt their legislation to the Protocol;

(c) Developing coherent policies and building effective institutional and human capacity through assessment tools and missions, providing policy advice, facilitating the transfer of expertise and best practices, developing adequate training material, providing training and setting up information-sharing mechanisms. Limited technical resources and lack of adequately trained personnel hamper the effective prevention, investigation and prosecution of smuggling of migrants in many countries. Many countries lack coherent policies and institutionalized mechanisms to coordinate action and to analyse and share information among criminal justice actors;

(d) Fostering bilateral and multilateral cooperation through projects that are regional in scope. National efforts to counter the smuggling of migrants are often undermined by the lack of international mechanisms for sharing information among law enforcement, prosecution, judiciary and other relevant actors;

(e) Increasing the knowledge base through data collection and analysis. Evidence-based knowledge on smuggling routes and the criminal groups involved and their methods and on the factors that shape the smuggling industry is scattered and incomplete, hampering the formulation of effective counter-policies.

2. Technical assistance with regard to the Firearms Protocol

72. Work is in progress to complete guidelines for the practical implementation of the operative articles of the Firearms Protocol. They include descriptions and steps covering record-keeping, the marking of firearms, deactivation, general requirements for export, import and transit licensing, security, theft prevention measures and the regulation of brokers. A training and awareness-raising programme based on the completed guidelines is being planned. The proposed activities in the area of providing assistance regarding the implementation of the Firearms Protocol may be summarized as follows:

(a) Promote the adoption of the UNODC guidelines for implementation of the Firearms Protocol;

(b) Assess implementation capacity among Member States and the measures instituted thus far, with a focus on Africa and Latin America;

(c) Build capacity of competent authorities through the provision of technical and legal assistance;

(d) Establish operative partnerships between the public sector, civil society and non-governmental organizations to address the economic consequences of illicit firearms proliferation.

VII. Mobilization of resources

73. The strategic framework for the period 2008-2011 for UNODC, approved by the Economic and Social Council in its resolution 2007/12 on the recommendation of the Commission on Narcotic Drugs and the Commission on Crime Prevention and Criminal Justice, is specifically premised on the fact that UNODC has a comparative advantage for contributing to the multilateral response against crime by offering, in particular, technical assistance in relation to the instruments and areas within its mandate. The strategic framework identifies as its first objective, under the rule of law component, the promotion, at the request of Member States, of effective responses to crime, drugs and terrorism by facilitating the implementation of relevant international legal instruments. The second objective of the strategic framework emphasizes the importance of gaining an enhanced knowledge of thematic and cross-sectoral trends for effective policy formulation, operational response and impact assessment in drugs and crime; and the third objective addresses the need to provide assistance to victims.

74. In that respect, the strategic framework responds to concerns expressed by various stakeholders, namely the need for more stable, predictable and sufficient funding and the need to operationalize results within the mandate of UNODC. However, given the current limited availability of resources, it is essential to mobilize additional funds and to establish clear priorities.

75. Priorities are guided by the Convention, in particular its article 30. Pursuant to article 32, the most important forum for the mobilization of resources and for the establishment of priorities is the Conference and, by extension, its working group on technical assistance. Needs and resources must be matched by strategic decisions based on transparent information that captures a comprehensive picture. The aim is to ensure geographically and substantively balanced action that captures shared views throughout developing countries and the donor community and takes into account the respective priorities of the actors.

76. The proposals listed above are submitted as a basis for discussion. The Working Group may also wish to exchange views on substantive and regional priorities for technical assistance. Donors may wish to consider the best ways of committing and pooling the necessary resources, based on the technical assistance needs and priorities identified by the Conference.
