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International cooperation in combating transnational crime

Ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Report of the Secretary-General

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* E/CN.15/2003/1.



I. Introduction

1. The General Assembly adopted the United Nations Convention against Transnational Organized Crime (the “Organized Crime Convention”) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Trafficking in Persons Protocol”) and the Protocol against Smuggling of Migrants by Land, Sea and Air (the “Migrants Protocol”) supplementing the Convention by its resolution 55/25 of 15 November 2000. By its resolution 55/255 of 31 May 2001, the Assembly adopted the supplementary Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (the “Firearms Protocol”).
2. The Secretary-General reported to the General Assembly at its fifty-seventh session on progress in the ratification of the Conventions and the Protocols thereto (A/57/153, paras. 7-14), recognizing the support of donors and noting that the capacity to provide pre-ratification and implementation assistance would be contingent upon continuous support from donor countries in the future.
3. In its resolution 57/168 of 18 December 2002, entitled “International cooperation in the fight against transnational organized crime: assistance to States in capacity-building with a view to facilitating the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the General Assembly welcomed the fact that a number of States had already ratified the Convention and the Protocols thereto, and reiterated the importance of ensuring their speedy entry into force; and encouraged Member States to support the provision of technical assistance to developing countries and countries with economies in transition to assist them in their efforts to ratify and implement the instruments.
4. In its resolution 57/173 of 18 December 2002, entitled “Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity”, the General Assembly supported the high priority given to technical cooperation and advisory services in the field of crime prevention and criminal justice, including in the areas of prevention and control of transnational organized crime and terrorism, and stressed the need to enhance the operational activities of the Centre for International Crime Prevention of the Office on Drugs and Crime (formerly known as the Office for Drug Control and Crime Prevention) to assist, in particular, developing countries, countries with economies in transition and countries emerging from conflict; urged all States and regional economic organizations that had not yet done so to sign and ratify the Convention and the Protocols thereto as soon as possible in order to ensure their speedy entry into force; welcomed the voluntary contributions already made, encouraged States to make adequate and regular voluntary contributions for the entry into force and implementation of the Convention and the Protocols thereto, through the United Nations funding mechanisms specifically designated for that purpose in the Convention; and requested the Secretary-General to take all necessary measures and to provide adequate support to the Centre so as to enable it to promote the speedy entry into force of the Convention and the Protocols thereto, including the organization of a treaty event, in cooperation with the Office of Legal Affairs of the Secretariat, in 2003.

5. At its eleventh session, in 2002, the Commission on Crime Prevention and Criminal Justice reviewed ongoing activities and underlined the importance of ratification efforts on the part of both the international community and the Centre for International Crime Prevention while expressing optimism about the ratification process thus far.¹ The present report is submitted to the Commission at its twelfth session in order to inform the Commission of developments regarding the activities and future work of the Centre.

II. Promotion of signature and ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

6. Since the adoption of the Organized Crime Convention and its Protocols by the General Assembly, promoting ratification of those instruments and providing assistance to States seeking to ratify them has been a top priority.

7. Substantial progress has been made. Before the instruments closed for signature on 12 December 2002, 8 more States had signed the Convention (bringing the total number of signatures to 147), 17 additional States had signed the Trafficking in Persons Protocol (bringing the total to 117), 16 more had signed the Migrants Protocol (bringing the total to 112) and 31 more had signed the Firearms Protocol (bringing the total to 52). During 2002, a total of 22 States ratified the Convention, 17 States ratified the Trafficking in Persons Protocol, 16 States ratified the Migrants Protocol and 2 countries ratified the Firearms Protocol. At the time of writing the present report, there were 32 parties to the Convention, 24 parties to the Trafficking in Persons Protocol, 22 to the Migrants Protocol and 3 to the Firearms Protocol. With that pace of ratification, the Convention and possibly also the two first Protocols should enter into force before the end of 2003. An updated list of ratifications is provided in the annex to the present report.

8. The Organized Crime Convention and its Protocols are the first instruments of global application in their field and their speedy entry into force and subsequent implementation will have a tangible impact on the improvement of collective action against transnational organized crime. As many Member States have already expressed their will to bring the Convention and its Protocols into effect as soon as possible, it is critical to continue to promote the ratification process. The Centre for International Crime Prevention has been implementing a project on pre-ratification assistance to the signatories of the Convention. The relevant activities have been supported through voluntary contributions by Canada, France, Japan, the Netherlands and the United States of America to a special account established pursuant to the Convention and operated under the United Nations Crime Prevention and Criminal Justice Fund. The project is assisting States in taking concrete steps toward ratification of the Convention and its Protocols through the implementation of its three components: (a) in-depth analysis of existing legislation and relevant institutions; (b) provision of assistance to legislators and national parliaments in updating and/or adoption of legislation; and (c) assistance to Governments in the establishment of and/or reinforcement of international cooperation mechanisms. The project implementation will continue throughout 2003.

A. Legislative guides

9. To further assist States seeking to ratify the instruments, the Centre for International Crime Prevention decided to produce a series of legislative guides, which may eventually form part of a larger package of materials, but their primary and immediate purpose is to assist in the ratification process by identifying legislative requirements, issues arising from those requirements and options available to States in developing and drafting the necessary legislation. The guides will not go beyond the instruments and will not engage in analysis or interpretation of the instruments or implementation issues except to the extent necessary to advise States at the ratification or legislation stages. They will not include model legislation, but samples of the legislative provisions adopted by various States will be compiled and annexed, as they become available, to illustrate a range of approaches taken by States that have already ratified. Three guides will be produced: the first will deal with the Organized Crime Convention; the second will deal jointly with the Trafficking in Persons Protocol and the Migrants Protocol; and the third will deal with the Firearms Protocol.

10. The legislative guide for the Convention is being developed in close cooperation and with the support of the International Centre for Criminal Law Reform and Criminal Justice Policy, which is a member of the United Nations Crime Prevention and Criminal Justice Programme network of institutions and is based in Vancouver, Canada. The Government of Canada supports the Centre in that endeavour. The legislative guides for the Protocols are being developed with assistance from the Governments of France and Italy, which have made generous voluntary contributions for that purpose. Three groups of experts have been established to consider the basic structure and content of the guides and to identify relevant legislative and other issues arising from each of the instruments. Consultants were engaged to draft the guides, with support and guidance from experts. (Pools of experts have been established in the manner proposed in the report of the Secretary-General of 4 March 2002 (E/CN.15/2002/10), para. 21.) The development of the legislative guides has entailed the organization of the following events:

(a) The group of experts on the legislative guide for the Convention met in Vancouver, Canada, from 8 to 10 April 2002 to consider the intended functions and basic structure of the guide and to develop an outline and overview of the basic issues to be dealt with in it;

(b) Experts on the legislative guide for the Trafficking in Persons Protocol and the Migrants Protocol met in Paris from 18 to 20 November 2002 to develop an outline and overview of the basic issues to be dealt with in the guide on those Protocols;

(c) The group of experts on the legislative guide for the Firearms Protocol met in Courmayeur, Italy, on 6 and 7 December 2002 to develop an outline and overview of the basic issues to be dealt with in the guide on that Protocol;

(d) The expert group on the legislative guide for the Convention held a second meeting in Vancouver on 22 and 23 February 2003 to review the draft of the guide.

11. It is expected that the draft guides will be finalized by the respective groups of experts by the end of April 2003. The Government of Monaco has offered to host a meeting of the three expert groups to finalize the three guides. It is hoped that, with the assistance of donors, the guides can be translated into all the official languages of the United Nations as soon as possible for their subsequent publication.

B. Interregional, regional and subregional meetings

12. During 2002, four regional and subregional meetings were held on ratification and implementation issues and representatives of the Centre participated in numerous regional or subregional meetings held by other organizations to provide information about the Organized Crime Convention and its Protocols. The meetings were conducted on the basis of a series of presentations and other materials developed by the Centre.

13. The meetings provided a forum for States to review progress in the ratification process and to exchange views and experiences. Recommendations or declarations resulting from the seminars urged the States that had not done so to sign the Convention and the Protocols and to undertake all necessary efforts to ensure their ratification. More specifically:

(a) High-level officials of Argentina, Bolivia, Brazil, Chile, Colombia, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Paraguay, Trinidad and Tobago, Uruguay and Venezuela participated in the Regional Ministerial Seminar on the United Nations Convention against Transnational Organized Crime and its Protocols, held in Quito from 25 to 27 March 2002. In the Final Declaration of the Ministerial Seminar, the above-mentioned States recognized the need to enact national legislation in accordance with the Convention and its Protocols and exhorted the Latin American Parliament, the Andean Parliament and the Central American Parliament to urge their members to support the signature of the Convention and its Protocols, in their respective States, in conformity with their constitutional provisions;

(b) A regional ministerial seminar for States of Central and Eastern Europe was held in Vilnius on 4 and 5 June 2002. It was attended by representatives of Albania, Armenia, Belarus, Bulgaria, Croatia, Estonia, Georgia, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Poland, the Republic of Moldova, Romania, Slovakia and Ukraine. In the resulting Vilnius Declaration on the Ratification of the United Nations Convention against Transnational Organized Crime and its Protocols, the above-mentioned States recognized the importance of reviewing and improving national legislation against transnational organized crime and undertook to review progress in the ratification and early implementation of those instruments in six months and to provide relevant information to the Centre for International Crime Prevention;

(c) The Regional Training Seminar for the Asian and Pacific Region was held in Osaka, Japan, on 22 and 23 August 2002, in cooperation with the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. It was attended by the representatives of Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Fiji, Indonesia, Japan, the Republic of Korea, the Laos People's Democratic Republic, Malaysia, Mongolia, Myanmar, Nauru, Nepal, Papua New

Guinea, the Philippines, Singapore, Sri Lanka and Thailand. The seminar suggested that, as a part of the ratification and implementation process, States should identify areas where legislative and organizational changes were needed through a multisectoral approach involving all relevant agencies and institutions. Another recommendation stated that the domestic law in many States appeared to a large extent to be in line with most of the requirements of the Convention and a careful study was needed to verify if some amendments of law were required, whether new interpretation of existing legislation was needed and whether prevailing practice needed to be changed. A reference was made in that regard to the availability of advisory assistance for developing countries by the Centre for International Crime Prevention;

(d) A ministerial conference for the African region was held in Algiers on 29 and 30 October 2002. The seminar gathered ministers of justice and high-level government officials from Africa, including from Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Chad, the Comoros, the Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, the Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, the Libyan Arab Jamahiriya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Nigeria, the Niger, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Somalia, South Africa, the Sudan, Togo, Tunisia, Uganda, the United Republic of Tanzania, Zambia and Zimbabwe. In the concluding Algiers Declaration (A/57/599, annex), the above-mentioned representatives called upon the African States to integrate the fight against transnational organized crime into the implementation of the global strategy of the New Partnership for Africa's Development (see A/56/457, annex I, AHG/Decl.1 (XXXVII)); and urged donor countries and relevant international and regional organizations to enhance technical, financial and material assistance to support the efforts of States of the region to ratify and implement the Convention and its Protocols, through substantial regular voluntary contributions to the special account established under the United Nations Crime Prevention and Criminal Justice Fund.

14. Some meetings were arranged with the cooperation or assistance of other entities at which members of the Secretariat made presentations to promote ratification of the Convention and its Protocols. A meeting of Central Asian countries on trafficking in small arms and light weapons was organized by the Organization for Security and Cooperation in Europe during which a segment was devoted to ratification and implementation of the Firearms Protocol. A presentation on links between transnational organized crime and terrorism was made to the annual meeting of the International Association of Prosecutors, held in London from 8 to 12 September 2002. The Centre for International Crime Prevention participated in the Oxford Conference on the Changing Face of International Cooperation in Criminal Matters in the 21st Century, organized by the Commonwealth Secretariat in Oxford, United Kingdom of Great Britain and Northern Ireland, from 27 to 30 August 2002. The Centre also conducted an expert group meeting on extradition and mutual legal assistance, hosted by the International Association of Penal Law, the International Institute of Higher Studies in Criminal Sciences and the Monitoring Centre on Organized Crime in Syracuse, Italy, from 6 to 8 December 2002.

C. Provision of assistance

15. As anticipated, as States proceeded with ratification efforts, the focus of meetings and technical assistance efforts shifted in 2002. Generally, the content of activities shifted away from general reviews of the Convention towards more narrowly defined legislative and administrative issues and there were more meetings with individual States to examine draft legislation or issues of specific concern to them. To make the best possible use of resources, a number of meetings dealt jointly with the Convention and other matters, including ratification of legal instruments relating to terrorism, and, in one case, international cooperation issues arising from the Organized Crime Convention and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.² The substantive issues most commonly raised included issues relating to the obligation to criminalize participation in an organized criminal group, the obligation to extradite or prosecute offenders, the liability of legal persons, jurisdictional issues and the Protocol obligation to criminalize trafficking in persons. Participants in the meetings included government ministers and other politicians, officials responsible for producing implementing legislation and law enforcement and other officials who would be responsible for implementing the instruments once they were ratified and in force.

16. Technical cooperation efforts were undertaken to assist a number of States that requested such assistance during 2002, although responses were limited in some cases by the availability of personnel or resources. Assistance on legislative and other issues relating to ratification was provided to the Government of Romania in Bucharest from 8 to 12 January 2002 and on 5 and 6 November 2002; the Government of Guinea-Bissau in Bissau from 25 May to 2 June 2002 and on 18 and 19 November 2002; the Government of the former Yugoslav Republic of Macedonia in Skopje on 11 and 12 June 2002; the Government of Timor-Leste in Dili from 14 to 31 October 2002; the Government of Cape Verde in Praia from 11 to 17 November 2002; the Government of Mali in Bamako from 17 to 19 November 2002; the Government of Nigeria from 26 to 29 November 2002; and the Government of Haiti in Port-au-Prince from 16 to 18 December 2002. (Some meetings also included assistance in ratifying international instruments relating to terrorism, prison reform, efforts against organized crime, trafficking in persons and other criminal justice issues in addition to assistance in ratifying the Organized Crime Convention and its Protocols.) A further meeting with legislative and law enforcement officials of the former Yugoslav Republic of Macedonia on trafficking in persons was held in Skopje on 3 and 4 October 2002, in cooperation with the Embassy of the United States in Skopje. A comprehensive written analysis of draft legislation on trafficking in persons was also provided to the Government of Cambodia. From 28 to 31 January 2003, an expert from the Centre attended a three-day meeting in the Russian Federation of an ad hoc working group established by the State Duma to prepare draft legislation to control trafficking in persons and to support early ratification of the Trafficking in Persons Protocol. From 18 to 20 February 2003, the same expert appeared before the legislative committee of the State Duma as an expert witness on the Protocols to the Organized Crime Convention and on trafficking. A national seminar on the Convention and its Protocols was organized in Mauritius from 4 to 7 February 2003; another national

seminar on that subject was held in Jakarta from 26 to 28 February; and a third was organized in Maputo on 27 and 28 February 2003.

17. The Centre has received and is in various stages of responding to requests from several States, including Angola, Belarus, Benin, Bolivia, Bosnia and Herzegovina, Burkina Faso, Burundi, Chile, Croatia, Ecuador, Timor-Leste, the Gambia, Guinea, Guinea-Bissau, Haiti, Madagascar, Mali, Mozambique, Mongolia, Namibia, Nauru, the Niger, Romania, Rwanda, Sao Tome and Principe, Thailand, Ukraine, Uruguay and Venezuela.

D. Treaty event

18. Promotion of ratification of the Organized Crime Convention and its Protocols has been mandated by the General Assembly in its resolution 57/173, in paragraph 17 of which, as mentioned above, the Assembly requested the Secretary-General to organize a treaty event, in cooperation with the Office of Legal Affairs of the Secretariat. In preparation for the 2003 treaty event on the theme "United Nations treaties against organized crime and terrorism", several organizational actions have been undertaken, in close collaboration with the Treaty Section of the Office of Legal Affairs. It is expected that the treaty event will encourage the ratification of 15 United Nations instruments in the field of transnational organized crime, terrorism, illicit drugs, trafficking in persons and human rights.

19. In preparation for the treaty event, the Centre for International Crime Prevention will provide substantive support and expertise for two panels on transnational organized crime and terrorism, to be organized for Member States in New York in July and August 2003. The treaty event itself is tentatively scheduled to take place during the first week of the fifty-eighth session of the General Assembly.

III. Conclusions and future action

20. The intensification of pre-ratification activities in 2002 has produced considerable results, making the entry into force of the Organized Crime Convention and at least the first two of its Protocols imminent. Further, the opportunity that will be offered to States with the organization of the treaty event is expected to generate more ratifications, thus increasing the number of parties to the instruments beyond those needed for entry into force. According to article 32 of the Convention, the Conference of the Parties should be convened no later than one year following the entry into force of the Convention. The first meeting of the Conference of the Parties will be preceded by a meeting of the Ad Hoc Committee that negotiated the Convention and its Protocols for the purpose of preparing draft rules of procedure for consideration and adoption by the Conference, in accordance with General Assembly resolution 55/25.

21. It is expected that the prospect of participation in the Conference of the Parties will sustain and further strengthen the momentum that is already evident in many States and will serve as an additional incentive and encouragement to expedite the ratification process.

22. Using the legislative guides, the Centre for International Crime Prevention intends to focus its activities on addressing legislative challenges related to the incorporation of the instruments in domestic legislation. The Centre intends to tailor assistance to specific needs, as expressed by interested Governments in their requests, offering advice designed to ensure that such incorporation is carried out in the most appropriate and comprehensive manner, but also in a way that would be in line with domestic legal systems and related traditions and would be conducive to implementation.

23. The Centre intends to continue and intensify activities designated to promote ratification of the Convention and its Protocols. In order to maximize resources and increase efficiency, the Centre will explore the possibility of combining technical assistance on the implementation of the instruments with technical assistance on implementation of the counter-terrorism instruments, when Member States so request. It is foreseen that technical assistance requests and delivery will shift towards capacity-building for implementation of the Convention and its Protocols under the guidance of the Conference of the Parties. The objectives of such assistance would be to develop and/or enhance infrastructure mechanisms for the strengthening of professional skills, as well as training and operational capacity-building for law enforcement agencies.

24. So far, Member States have offered strong support to the Centre for International Crime Prevention for the ratification and the implementation of the Convention and its Protocols. Further efforts will depend not only on the political will of States to bring their laws and regulatory regimes in line with the provisions of the Convention and its Protocols, but also on States' continuing support for the provision of technical assistance to developing countries and countries with economies in transition to enable them to meet the requirements of those instruments.

Notes

¹ See *Official Records of the Economic and Social Council, 2002, Supplement No. 30 (E/2002/30)*, paras. 61-64.

² See *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

Annex

Status of ratifications as at 10 March 2003

A. Summary of signatures and ratifications

<i>International instrument</i>	<i>Signatures</i>	<i>Ratifications</i>
United Nations Convention against Transnational Organized Crime	147	32
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	117	24
Protocol against the Smuggling of Migrants by Land, Sea and Air	112	22
Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition	52	3

B. Ratification of the United Nations Convention against Transnational Organized Crime

<i>State</i>	<i>Date of ratification</i>
1. Monaco	5 June 2001
2. Nigeria	28 June 2001
3. Yugoslavia	6 September 2001
4. Poland	12 November 2001
5. Bulgaria	5 December 2001
6. Latvia	7 December 2001
7. Peru	23 January 2002
8. Spain	1 March 2002
9. Mali	12 April 2002
10. Bosnia and Herzegovina	24 April 2002
11. Lithuania	9 May 2002
12. Canada	13 May 2002
13. Venezuela	13 May 2002
14. Burkina Faso	15 May 2002
15. Philippines	28 May 2002
16. Tajikistan	8 July 2002
17. New Zealand	19 July 2002
18. Antigua and Barbuda	24 July 2002
19. Namibia	16 August 2002
20. Albania	21 August 2002
21. Botswana	29 August 2002
22. Nicaragua	9 September 2002
23. Ecuador	17 September 2002
24. Morocco	19 September 2002

<i>State</i>	<i>Date of ratification</i>
25. Algeria	7 October 2002
26. France	29 October 2002
27. Argentina	19 November 2002
28. Romania	4 December 2002
29. Croatia	24 January 2003
30. Equatorial Guinea	7 February 2003
31. Estonia	10 February 2003
32. Mexico	4 March 2003

C. Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

<i>State</i>	<i>Date of ratification</i>
1. Monaco	5 June 2001
2. Nigeria	28 June 2001
3. Yugoslavia	6 September 2001
4. Bulgaria	5 December 2001
5. Peru	23 January 2002
6. Spain	1 March 2002
7. Mali	12 April 2002
8. Bosnia and Herzegovina	24 April 2002
9. Canada	13 May 2002
10. Venezuela	13 May 2002
11. Burkina Faso	15 May 2002
12. Philippines	28 May 2002
13. Tajikistan	8 July 2002
14. New Zealand	19 July 2002
15. Namibia	16 August 2002
16. Albania	21 August 2002
17. Botswana	29 August 2002
18. Ecuador	17 September 2002
19. France	29 October 2002
20. Argentina	19 November 2002
21. Romania	4 December 2002
22. Croatia	24 January 2003
23. Equatorial Guinea	7 February 2003
24. Mexico	4 March 2003

D. Ratification of the Protocol against the Smuggling of Migrants by Land, Sea and Air

<i>State</i>	<i>Date of ratification</i>
1. Monaco	5 June 2001
2. Yugoslavia	6 September 2001
3. Nigeria	27 September 2001
4. Bulgaria	5 December 2001
5. Peru	23 January 2002
6. Spain	1 March 2002
7. Mali	12 April 2002
8. Bosnia and Herzegovina	24 April 2002
9. Canada	13 May 2002
10. Burkina Faso	15 May 2002
11. Philippines	28 May 2002
12. Tajikistan	8 July 2002
13. New Zealand	19 July 2002
14. Namibia	16 August 2002
15. Albania	21 August 2002
16. Botswana	29 August 2002
17. Ecuador	17 September 2002
18. France	29 October 2002
19. Argentina	19 November 2002
20. Romania	4 December 2002
21. Croatia	24 January 2003
22. Mexico	4 March 2003

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

<i>State</i>	<i>Date of ratification</i>
1. Mali	3 May 2002
2. Burkina Faso	15 May 2002
3. Bulgaria	6 August 2002