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**Meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

Vienna, 24-26 April 2017

Item 2 of the provisional agenda\*

**Mechanism for the review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: Existing information, tools, resources and technology****Note by the Secretariat****I. Introduction**

1. In its resolution 8/2, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to continue the process of establishing the mechanism for the review of the implementation of the Organized Crime Convention and the Protocols thereto. The Conference also underlined that the review mechanism shall be cost-effective, concise and user-friendly and that it should make optimal and efficient use of existing information, tools, resources and technology so that it would not impose an undue burden on States parties, their central authorities and experts involved in the review process. In the same resolution, the Conference also decided that, in order to review each thematic cluster of articles, the relevant working group shall define, in the next two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire.

2. The present note has been prepared with a view to contributing to the deliberations of the open-ended intergovernmental meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the Organized Crime Convention and the Protocols thereto. The note presents existing information which may be of relevance for the review mechanism and summarizes the relevant existing tools and resources, as well as the existing technologies that could be used for information-gathering and dissemination. Recommendations are also provided on how to utilize the existing information, tools, resources and technologies

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\* CTOC/COP/WG.8/2017/1.



in the context of a mechanism to review the implementation of the Organized Crime Convention and the Protocols thereto.

## II. Existing information, tools, resources and technology

### A. Existing information

3. Pursuant to article 32 of the Organized Crime Convention and in order to facilitate information-gathering and dissemination, the United Nations Office on Drugs and Crime (UNODC) developed the knowledge management portal known as *Sharing Electronic Resources and Laws on Crime* (SHERLOC).<sup>1</sup> SHERLOC consists of four components: a case law database, a database of legislation, a bibliographic database and the competent national authorities directory. The information covers the articles of the Organized Crime Convention and the Protocols thereto as well as 14 specific crime types, including the offences established by the Convention and the Protocol offences. The database is also searchable by “cross-cutting issues”, which include international cooperation and crime prevention.

4. As at 1 February 2017, SHERLOC included more than 2,300 cases and more than 6,200 relevant legislative provisions against organized crime from 196 countries. With the exception of the directory of competent national authorities, the information in SHERLOC is accessible to the public.<sup>2</sup> SHERLOC also links to the multi-agency International Money Laundering Information Network (IMOLIN) which includes a broad range of information and resources on money-laundering related matters.<sup>3</sup>

5. Regarding the Trafficking in Persons Protocol, in 2010, the United Nations General Assembly adopted the Global Plan of Action to Combat Trafficking in Persons. The Global Plan reiterated the collective effort behind the United Nations Trafficking in Persons Protocol, and gave UNODC the mandate to collect data and report biennially on trafficking in persons patterns and flows at the national, regional and international levels. The *2016 UNODC Global Report on Trafficking in Persons* is the third of its kind under this mandate. As UNODC has been systematically collecting data on trafficking in persons for more than a decade, trend information is presented in the report for a broad range of indicators. Questionnaires are utilized for the development of the Global Report on Trafficking in Persons.

6. Similarly, in 2015, the Working Group on the Smuggling of Migrants recommended that States consider requesting UNODC to collect and prepare a comprehensive global report on the smuggling of migrants in close coordination and consultation with States. Despite the urgency and the global dimension of this phenomenon, actual knowledge remains limited and irregular. In order to begin exploring this on a global scale, UNODC is currently drafting the first global study on smuggling of migrants, which it is envisaged will be published at the end of 2017. The *2015 UNODC Firearms Study* and its complementary *Country Fact Sheets*,<sup>4</sup> were developed pursuant to resolutions 5/4 and 6/2 of the Conference, in which it requested UNODC to conduct a study of the transnational nature of and routes used in trafficking in firearms, based on the analysis of information provided by States on confiscated weapons and ammunition. The Study is the first attempt to collect and analyse in a systematic and standardized manner national data and information on

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<sup>1</sup> sherloc.unodc.org.

<sup>2</sup> For more information, please see the background paper by the Secretariat on the Status of responses by States parties and signatories on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/WG.2/2016/2).

<sup>3</sup> imolin.org.

<sup>4</sup> <http://www.unodc.org/unodc/en/firearms-protocol/global-firearms-trafficking-study.html>.

seized firearms, their illicit trafficking and associated criminal offences, with a view to supporting evidence based policy- and decision-making at the national and international level. Questionnaires are utilized for the development of the Firearms Study.

7. As regards the United Nations Convention against Corruption, in its resolution 3/1, entitled “Review mechanism”, the Conference of the States Parties recalled article 63 of the said Convention and established the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. During its first cycle, the Review mechanism focused on chapters III (Criminalization and law enforcement) and IV (International cooperation). Accordingly, a wealth of information emanating from the mechanism to review the implementation of the United Nations Convention against Corruption is available under the knowledge management portal known as Tools and Resources for Anti-Corruption Knowledge (TRACK).

## **B. Existing tools and resources**

8. Four sets of questionnaires have been developed by the Conference of the Parties. At its first session, held in 2004, the Conference adopted its decision 1/2, in which it requested the Secretariat to collect information using a questionnaire to be developed in accordance with guidance provided by the Conference. The questionnaire was to be used to collect information in the context of the programme of work of the Conference, which addressed, inter alia, criminalization legislation and international cooperation. Ultimately, three questionnaires were developed: one on the Convention and one on each of the two protocols then in force (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air).

9. In its decision 2/1, adopted at its second session, held in 2005, the Conference broadened its programme of work to include a second set of topics, including the investigation of cases of transnational organized crime, matters related to law enforcement cooperation, assistance to and protection of victims and witnesses and criminalization legislation concerning the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. In line with this expanded mandate, four additional questionnaires were developed, three covering the instruments used in the first reporting cycle and one covering the Firearms Protocol.<sup>5</sup>

10. Drawing on information-gathering methods developed to support reporting under the United Nations Convention against Corruption, the Open-ended Interim Working Group of Government Experts on Technical Assistance requested UNODC to develop an efficient and user-friendly information-gathering tool in the form of an interim computer-based checklist which constituted the third set of questions. The objective was to take advantage of modern information and communications technologies and to simplify reporting obligations under the Organized Crime Convention. The self-assessment checklist was finalized in three languages (English, French and Spanish) in May 2008 and subsequently distributed to States parties and signatories.<sup>6</sup> It was only after these information-gathering efforts that the development of the omnibus survey software commenced, constituting the fourth set of questionnaires.

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<sup>5</sup> <http://www.unodc.org/unodc/en/treaties/CTOC/review-of-the-implementation-of-the-convention.html>.

<sup>6</sup> Ibid.

11. The development of the questionnaires presented by the omnibus survey software started in 2007 and the whole work was finalized in 2012. In the questionnaires for the Organized Crime Convention and its three protocols, Respondents are asked a series of self-assessment questions on each provision, beginning with whether the provision has been implemented. Depending on how respondents answer, they are guided through other questions. In cases where laws or measures have been adopted in relation to the provision under review, respondents are given the opportunity to provide information, such as excerpts of the relevant national legislation, and examples of cases when the provisions have been implemented successfully. The question flow contained in the omnibus survey software also allows respondents to explain the difficulties encountered in implementation provision by provision. Respondents can select the kinds of legal and technical assistance needed by their Governments from a list of activities covering the most common challenges to implementation. The questions contained in the omnibus survey software therefore also enable the Conference to receive information on gaps in implementation and technical assistance needs.

12. One of the more recent key technical assistance tools related to the Organized Crime Convention is the publication entitled *Implementation of the United Nations Convention against Transnational Organized Crime: Needs Assessment Tools*.<sup>7</sup> The purpose of the *Needs Assessments Tools* is to provide guidance in assessing the measures that could be taken by States parties to ensure that the full potential of the Organized Crime Convention can be realized. The tools are meant to be used in the delivery of technical assistance, in particular for assessing the needs of States for technical assistance, with a focus on implementing legislation. At the domestic level, the tools can also enable experts, in particular policymakers and legislators, to assess the implementation of the Convention, which could include self-assessment. The tools consist of indicators and questions designed to identify gaps in existing legislation and its implementation, facilitate the formulation and development of technical assistance projects that adequately respond to the gaps and needs identified, and facilitate the development of performance indicators for evaluating progress in implementation.<sup>8</sup>

13. Similar needs assessment tools have been developed in relation to trafficking in persons, smuggling of migrants and trafficking in firearms. The *Needs Assessment Toolkit on the Criminal Justice Response to Human Trafficking* aims to guide the assessors in gathering and analysing information pertaining to a country's criminal justice response to human trafficking. More specifically, it aims to assist governments, civil society, the international community and other relevant actors to conduct a comprehensive or specific assessment of selected aspects of a country's criminal justice response to trafficking in persons. The *Toolkit* contains a number of components that are crucial for curtailing the crime of trafficking in persons and provides sufficient flexibility to be used for assessments both in places where a solid infrastructure for combating trafficking in persons exists and in places with few or no such measures.<sup>9</sup>

14. The multi-agency publication entitled *International Framework for Action to Implement the Trafficking in Persons Protocol* offers additional information on effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking

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<sup>7</sup> [https://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Manuals\\_Handbooks\\_Best\\_Practices](https://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Manuals_Handbooks_Best_Practices).

<sup>8</sup> For more detailed information on past information-gathering efforts and tools developed for that purpose, please refer to the Report by the Secretariat entitled "Development of tools to gather information from States on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto" (CTOC/COP/2010/10).

<sup>9</sup> [http://www.unodc.org/documents/human-trafficking/Needs\\_Assessment\\_Toolkit\\_ebook\\_09-87518\\_June\\_2010.pdf](http://www.unodc.org/documents/human-trafficking/Needs_Assessment_Toolkit_ebook_09-87518_June_2010.pdf).

in Persons, Especially Women and Children and other international standards to combat human trafficking.<sup>10</sup> UNODC has also prepared a publication entitled *Assessment Toolkit: Trafficking in Persons for the Purpose of Organ Removal* which deals with assessing the implementation of the Trafficking in Persons Protocols with a focus on one of the forms of exploitation of trafficking, namely organ removal.

15. The *Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants* provides a similar inventory of measures for assessing the legislative, investigative, prosecutorial, judicial, and administrative responses to the smuggling of migrants by land, air, and sea, for deterring and combating such crime, and for integrating the information and experience gained from such assessment into successful national, regional, and international strategies.<sup>11</sup> The *International Framework for Action to Implement the Smuggling of Migrants Protocol* also aims to assist Member States and non-State actors in identifying and addressing gaps in their response to migrant smuggling by recommending practical measures in accordance with international standards.<sup>12</sup>

16. The UNODC *Technical Guide to implement the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition*,<sup>13</sup> provides a first practical and simple advice on steps that States can take to implement the provisions of the Firearms Protocol. The *Guide* is intended to assist policymakers, law enforcement officials and practitioners involved in arms transfers and investigations as well as persons engaged in developing control measures and criminalizing the illicit manufacture of and trade in firearms. The aim of the *Guide* is also to help States develop the capacity to respond proactively when diversion of firearms and ammunition occurs, to intervene in a timely and reliable manner and to detect possible points of diversion.<sup>14</sup>

17. In order to assist Member States seeking to ratify, accede to or implement the Organized Crime Convention, the *Legislative Guide for the Implementation of the United Nations Convention against Transnational Organized Crime* was updated pursuant to Conference resolution 7/4, entitled “Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime”, and has been published electronically in SHERLOC.<sup>15</sup> The Legislative Guides for the implementation of the Protocols supplementing the Organized Crime Convention are currently being updated.

18. UNODC has also developed tools to support the provision of legislative assistance, review and amendment of existing legislation as well as the adoption of

<sup>10</sup> [http://www.unodc.org/documents/human-trafficking/Framework\\_for\\_Action\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf).

<sup>11</sup> [http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/UNODC\\_2012\\_Assessment\\_Guide\\_to\\_the\\_Criminal\\_Justice\\_Response\\_to\\_the\\_Smuggling\\_of\\_Migrants-EN.pdf](http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/UNODC_2012_Assessment_Guide_to_the_Criminal_Justice_Response_to_the_Smuggling_of_Migrants-EN.pdf).

<sup>12</sup> [http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Framework\\_for\\_Action\\_Smuggling\\_of\\_Migrants.pdf](http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Framework_for_Action_Smuggling_of_Migrants.pdf).

<sup>13</sup> <http://www.unodc.org/unodc/en/firearms-protocol/tools-and-publications.html>.

<sup>14</sup> The International Small Arms Control Standards (ISACS) have been developed as a joint initiative of the United Nations Coordinating Action on Small Arms (CASA) to provide clear, practical and comprehensive guidance to practitioners and policymakers on fundamental aspects of small arms and light weapons. The standards fit within the global framework created by the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (United Nations Programme of Action, the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (International Tracing Instrument or ITI) and the United Nations Firearms Protocol and the Arms Trade Treaty; and build upon best practices elaborated at regional and subregional levels. The ISACS modules are maintained and updated by a voluntary global network of experts drawn from the United Nations, governments, international and regional organizations, civil society and the private sector.

<sup>15</sup> [sherloc.unodc.org](http://sherloc.unodc.org).

new legislation to combat trafficking in persons, smuggling of migrants and trafficking in firearms as well as money-laundering. The UNODC *Model Legislative Provisions against Organized Crime* are utilized in the provision of legislative assistance and, as all UNODC tools, are designed to be adapted to the needs of States, depending on their legal tradition and social, economic, cultural and geographic conditions.<sup>16</sup>

19. The UNODC *Model Law against Trafficking in Persons* has been developed to assist States in implementing the provisions contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing that Convention. As in the other model laws, each provision is accompanied by a commentary, providing several options for legislators, as appropriate, and legal sources and examples. A similar approach is adopted in the UNODC *Model Law against the Smuggling of Migrants*.<sup>17</sup>

20. The UNODC *Model Law against Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition* contains model provisions for the development of comprehensive firearms legislation and related secondary regulations necessary to ensure the adequate implementation of the technical requirements of the Protocol.

21. The UNODC and International Monetary Fund (IMF) *Model Law on Money Laundering and the Financing of Terrorism* contains a comprehensive set of legal measures that a domestic law should include in order to prevent, detect, and sanction effectively, money-laundering and the financing of terrorism and to enable international cooperation against these crimes.<sup>18</sup>

### C. Existing technology

22. The omnibus survey software, which the Secretariat began developing in 2007 to carry on the questionnaires, is a software for States to use in responding to reporting obligations emanating from the Organized Crime Convention and the United Nations Convention against Corruption. The decision to use one tool for both Conventions took into consideration the convergence of the information-gathering mandates emanating from both Conventions and the difficulties that States parties indicated that they had in responding to the many questionnaires. Consequently, cross-references were created in the omnibus survey software between the provisions of the two Conventions which are in essence identical, the difference being the scope of application. Following a broad consultation process to validate the approach and methodology, the portion of the software relating to the Convention against Corruption was finalized and endorsed at the third session of the Conference of the States Parties to the Convention, held in Doha from 9 to 13 November 2009. Since then, the omnibus survey software has been in use in the context of the mechanism for the review of implementation of the Convention against Corruption. In 2012, the portion of the software relating to the Organized Crime Convention and the Protocols thereto was also finalized and translated into all official languages of the United Nations, following the approach adopted for the mechanism to review the implementation of the United Nations Convention against Corruption.

23. Recently, the questions pertaining to the Convention against Corruption contained in the software were redesigned in close consultation with States. Therefore,

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<sup>16</sup> [https://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Model\\_Laws\\_and\\_Treaties](https://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Model_Laws_and_Treaties).

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

a restructuring of the portion of the software relating to the Organized Crime Convention and the Protocols thereto would also be required for consistency and for States to be able to import their responses from the self-assessment on one Convention to the other.<sup>19</sup>

24. In its resolution 8/2, the Conference of the Parties to the Organized Crime Convention decided that, in order to review each thematic cluster of articles, the relevant working group shall define, in the next two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire. Should such a short, precise and focused self-assessment questionnaire not follow the same format as the questionnaire utilized in the context of the mechanism for the review of implementation of the Convention against Corruption, the omnibus survey software may not be the ideal solution for the review mechanism under the Organized Crime Convention as it would be difficult to maintain the cross-reference between the two Conventions, making the benefits of utilizing the same software obsolete.

25. The second possible vehicle for information-gathering, dissemination and analysis is the SHERLOC portal, which is widely used.<sup>20</sup> In order to support the review mechanism, a new module could be developed as a further component of SHERLOC to host the new short, precise, focused and web-based questionnaires, to be defined by the intergovernmental meeting pursuant to resolution 8/2. The module would not only support the filling in and submission of questionnaires, but also implement a workflow, as required by the Conference, ensuring that all data be shared on an authorized-to-know basis for as long as the outcome has not been approved by all concerned parties. Alternatively, in order to cater for scenarios where a robust Internet connectivity is difficult to achieve, States parties would be able to download and print an offline, paper-based version of the questionnaires.

26. In this way, States parties could easily and quickly input, update or verify national information on legislation and jurisprudence, appoint focal points for ease of communication and provide analysis on key legal issues in their legislation and case law. A function to request technical assistance could be added. Through the web-based application, States parties could coordinate inputs across government agencies in order to ensure the timely submission of the self-assessment.

27. The information gathered could be used to analyse key legal issues, challenges and lessons learned, trends and patterns, to determine technical assistance needs, to develop technical assistance tools or to deliver other forms of technical assistance. Another advantage of using SHERLOC in this manner would be that legislation and jurisprudence from other States parties would be readily available for use to support domestic policymaking and legislative processes.

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<sup>19</sup> Since the seventh session of the Conference of the Parties, the Secretariat has received one response on implementation of the Organized Crime Convention and the Protocols thereto through the omnibus survey software. A simplified version of the firearms part of the omnibus survey software has been in use since 2011 in the context of the delivery of legislative assistance work under the Global Firearms Programme.

<sup>20</sup> In 2016, SHERLOC had ca. 114,000 visitors. According to an online survey, an equal number of responding users come from the governmental sector and academia (18.2 per cent each). 13.6 per cent of responding users have a law enforcement background and 11.4 per cent other legal background. Students represent 11.4 per cent of the responding users. The responding users indicated that they use SHERLOC for identifying legislative provisions, obtaining information on competent national authorities, supporting the domestic policymaking process, analysing case law as well as obtaining information on States' compliance with the Organized Crime Convention and the Protocols thereto.



### III. Conclusions and recommendations

28. Pursuant to article 32, paragraph 4, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing the Convention and the difficulties encountered by them in doing so through information provided by them. In other words, acquiring the necessary knowledge through information-gathering is at the core of the mandate of the Conference.

29. In formulating the questionnaires, the intergovernmental meeting may wish to draw upon the existing questionnaires and technical assistance tools that have been developed by UNODC as well as the information available under the mechanism to review the implementation of the United Nations Convention against Corruption. In addition to focused questions designed to identify gaps in existing legislation and its implementation, the intergovernmental meeting may wish to consider including questions to facilitate technical assistance delivery in order to adequately respond to the gaps and needs identified. The intergovernmental meeting may also wish to consider providing guidance on performance indicators, including for purposes of evaluating progress in implementation. As requested by the Conference, UNODC stands ready to support the process.

30. The intergovernmental meeting may wish to recommend that the Conference requests the development of a new module as a further component of SHERLOC to host the questionnaires for the Organized Crime Convention and the Protocols thereto. The intergovernmental meeting may also wish to recommend that such a component not only support the filling in and submission of the questionnaires but also implement a tailor-made workflow, to meet the requirements of a review mechanism, ensuring that all data be shared on an authorized-to-know basis for as long as the outcome has not been approved by all concerned parties. Through the inclusion of the self-assessment module in SHERLOC, all information would be available under one portal.

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