



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

Distr.: General  
21 July 2020

Original: English

## Report on the meeting of the Working Group of Government Experts on Technical Assistance held in Vienna on 9 and 10 July 2020

### I. Introduction

1. The Working Group of Government Experts on Technical Assistance was established pursuant to decision 2/6 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. In its decision 4/3, the Conference decided that the Working Group should be a constant element of the Conference.
2. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference decided that the working groups established by it should continue to analyse, in a comprehensive manner, the implementation of the Convention and the Protocols thereto, making the best use of the information gathered, in full respect of the principle of multilingualism.
3. Furthermore, in its resolution 8/4, entitled “Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime”, the Conference noted that technical assistance was a fundamental part of the work carried out by the United Nations Office on Drugs and Crime (UNODC) to assist Member States in the effective implementation of the Convention and the Protocols thereto.

### II. Future considerations

4. At the 1st meeting of the Working Group, on 10 July 2020, there was no consensus on whether the Working Group should issue recommendations at the meeting. The Working Group agreed to put the recommendations on hold until the States parties had an opportunity to meet with the President of the Conference of the Parties to the Organized Crime Convention and reach a consensus on the organization of work of the working groups, in view of restrictions resulting from the coronavirus disease (COVID-19) pandemic.
5. On the basis of the meeting, the Chair of the Working Group, in consultation with the Secretariat, prepared discussion points for future consideration (see annex). During the discussion, the Chair noted that, should the Conference of the Parties decide to consider the discussion points for future consideration as recommendations, to the extent that any proposal would entail additional work for the Secretariat, the Conference would need to decide whether the proposal should be subject to the availability of extrabudgetary resources.



### **III. Organization of the meeting**

#### **A. Opening and duration of the meeting**

6. As agreed by the extended Bureau of the Conference by silence procedure on 19 June 2020, the meeting was held in a hybrid format, with a very restricted number of participants (representatives of the Secretariat) present in the meeting room, and all other participants being remotely connected using an interpretation platform procured by the United Nations.

7. The Working Group met on 9 and 10 July and held four meetings in total. Two meetings were held on each day, from 12 to 2 p.m. and from 4 to 6 p.m., Central European Summer Time. Upon consultation with the Chair of the Working Group, the aforementioned schedule was decided to accommodate the different time zones of the Chair and participants of the Working Group, while also respecting and staying within the time frame usually set for meetings. Information about the new meeting times was made available on the relevant web page of the Working Group.

8. The Working Group meeting was chaired by Thomas Burrows (United States of America). Owing to the specific format of the meeting resulting from the COVID-19 pandemic, the Chair participated in the meeting remotely.

9. The Chair of the Working Group made an opening statement. Introductory statements were made by representatives of the Secretariat on item 2 of the agenda; the agenda was adopted at the 1st meeting, on 9 July 2020.<sup>1</sup>

10. Statements were made by representatives of the following States parties to the Convention: Brazil, and the State of Palestine (on behalf of the Group of 77 and China).

#### **B. Statements**

11. For the purposes of the meeting, the Secretariat used an interpretation platform, Interprefy, to provide interpretation into the six official languages of the United Nations. The platform allowed 300 participants to be assigned a speaking and listening role, while all other participants had a listening role only. Delegations had been requested to notify the Secretariat about the distribution of speaking and listening roles in each delegation when registering their delegates by note verbale.

12. Representatives of the Secretariat delivered background presentations under agenda item 2.

13. Under agenda item 2, statements were made by representatives of the following States parties: Armenia, Colombia, Egypt, India, Italy, Namibia, Paraguay, Romania and United States.

14. Under agenda item 3, statements were made by representatives of the following States parties: Canada, India, Italy, Nigeria, Romania, Singapore and United States.

15. Under agenda item 4, a representative of the Secretariat made a presentation. A statement was made by the representative of Guatemala.

#### **C. Adoption of the agenda and organization of work**

16. At its 1st meeting, on 9 July, the Working Group adopted the following agenda:

1. Organizational matters:
  - (a) Opening of the meeting;

---

<sup>1</sup> CTOC/COP/WG.2/2020/1.

- (b) Adoption of the agenda and organization of work.
2. Updating the legislative records of States parties in preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.
3. Application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence.
4. Other matters.
5. Adoption of the report.

#### **D. Attendance**

17. The following States parties to the Convention were represented at the meeting, participating remotely, owing to the specific meeting format required as a result of the COVID-19 pandemic: Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, European Union, France, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iraq, Israel, Italy, Japan, Jordan, Kuwait, Kyrgyzstan, Lebanon, Libya, Malaysia, Malta, Mexico, Morocco, Myanmar, Namibia, Nigeria, Nepal, Norway, Oman, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, State of Palestine, Sudan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States, Uruguay, Venezuela (Bolivarian Republic of) and Yemen.

18. The following signatory State to the Convention was represented by observers, also participating remotely: Islamic Republic of Iran.

19. The following intergovernmental organizations were represented by observers, also participating remotely: Council of Europe, European Border and Coast Guard Agency (Frontex), International Criminal Police Organization (INTERPOL), League of Arab States and Organization of Islamic Cooperation.

20. A list of participants is contained in document CTOC/COP/WG.2/2020/INF/1/Rev.1.

#### **E. Documentation**

21. The Working Group had before it the following documents:

- (a) Annotated provisional agenda ([CTOC/COP/WG.2/2020/1](#));
- (b) Background paper prepared by the Secretariat on application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence ([CTOC/COP/WG.2/2020/2](#)).

### **IV. Summary of the deliberations**

#### **A. Organizational matters**

22. At its 1st meeting, on 9 July, the Working Group considered agenda item 1, entitled “Organizational matters”. During the opening session, the State of Palestine, on behalf of the Group of 77 and China, referred to the letter dated 6 July 2020 from the Group of 77 and China to the President of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. Regarding the

organization of work, the Group of 77 and China had noted that timely information and consultation with States parties would have been necessary to better understand the organization of work proposed. Regarding recommendations emanating from the Working Group, the Group of 77 and China reiterated their position that they could not support the proposed compilation of recommendations by the Chair (see [CTOC/COP/WG.3/2020/4](#)).

23. As a way forward, in accordance with past practice, the Working Group agreed that the summary of the deliberations would be the summary by the Chair and was therefore not subject to debate. In line with the practice adopted by the Working Group on International Cooperation at its eleventh meeting, the Working Group of Government Experts on Technical Assistance did not adopt any recommendations at the present meeting but instead prepared discussion points for future consideration, as outlined in the annex.

## **B. Updating the legislative records of States parties in preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

24. Also at its 1st meeting, on 9 July, the Working Group considered agenda item 2, on updating the legislative records of States parties in preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto. Under that item, the Chair made an introductory statement and representatives of the Secretariat delivered several presentations.

25. The first presentation by the Secretariat was on the new global programme on implementing the Organized Crime Convention: from theory to practice. The representative of the Secretariat indicated that the programme would aim to achieve effective, evidence-informed responses to challenges posed by transnational organized crime, including supporting States parties in acting on the observations emanating from the Implementation Review Mechanism, in line with Conference resolution 9/1, entitled “Establishment of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”.

26. In the presentations that followed, representatives of the Secretariat provided practical demonstrations of the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC), including the external contributor interface, which provides States with the possibility of directly submitting legislation to UNODC for review and publication on SHERLOC.

27. Several speakers updated the Working Group on recent national legislative developments in countering organized crime within their States, including legislation enacted in line with relevant provisions of the Organized Crime Convention. Many speakers indicated their readiness to share those legislative provisions with the Secretariat.

28. Many speakers mentioned that they frequently used SHERLOC in consulting the legislation of other States, for example, for purposes of international cooperation. Some speakers encouraged States that had not yet done so to provide their national legislation and jurisprudence concerning organized crime. In addition, some speakers inquired about the possibility of expanding the portal to include explanatory materials on national legal frameworks on organized crime such as prosecutors’ manuals, best practices and legal briefs consolidating relevant legislative provisions on organized crime in each country.

29. Several speakers welcomed the possibility for focal points to directly submit legislation to UNODC through the SHERLOC external contributor interface. One

speaker inquired about the relationships between reporting obligations under the Organized Crime Convention and other legal instruments.

30. Many speakers stressed the need to build the capacities of States to use the tools available on SHERLOC, especially considering that the new secure module for the Implementation Review Mechanism, also known as RevMod, which was expected to be launched at the tenth session of the Conference of the Parties, would be embedded in SHERLOC and utilized for the Review Mechanism. Another speaker stressed the need to raise awareness of the functionalities of the database, including through the use of readiness surveys or guidance on how to use the platform.

31. One speaker noted the potential utility of SHERLOC as a powerful tool for horizontal technical assistance between jurisdictions. The speaker also invited States to consider inviting UNODC to participate in training activities of national judicial institutions, with a view to providing training on the use of the SHERLOC portal as a source of information on legislation and jurisprudence from various jurisdictions.

### **C. Application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence**

32. At its 1st and 2nd meetings, on 9 July, the Working Group considered agenda item 3, on application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence. With the Chair presiding, the discussion under item 3 was led by the following panellists: Kevin Yong (Singapore), Gladice Pickering (Namibia) and Tom Andreopoulos (Canada).

33. The panellist from Singapore presented a case study illustrating the application of the Organized Crime Convention in the law of Singapore. The case study focused on the national application of the provisions of article 6 of the Convention in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act of Singapore. Citing case law, the panellist discussed how courts in Singapore had defined two key elements relating to the predicate offence of money-laundering, namely, proof that the property is a benefit of criminal conduct and proof of a guilty mind (*mens rea*). In that context, the panellist stressed the benefits of international cooperation in obtaining evidence of the predicate offence in the requested jurisdiction, as well as in tracing the flow of proceeds of crime.

34. The panellist from Namibia delivered a presentation on procedures for harmonizing national legislation with obligations under the Organized Crime Convention, with a focus on the Prevention of Organized Crime Amendment Act of Namibia. The panellist also discussed case law under that legislation. Moreover, the panellist shared success stories, as well as challenges that practitioners and law enforcement agencies had encountered, in implementing the provisions, such as lack of capacity within law enforcement agencies and lack of harmonized understanding of the provisions of the Organized Crime Convention.

35. The panellist from Canada gave a presentation on the Canadian jurisprudential perspective on the Organized Crime Convention. The panellist's discussion focused on the definition of the term "criminal organization" as interpreted by Canadian courts, while taking into consideration the scope provided for under the Organized Crime Convention. The panellist shared questions relating to key evidence that need to be considered in determining what constitutes a criminal organization, or organized criminal group, as defined in the Organized Crime Convention. In concluding, the panellist made recommendations on improving strategies for prosecuting cases involving organized criminal groups.

36. After the presentations, the panellists exchanged additional information with the participants in response to their questions and comments on specific challenges and examples of good practices. Furthermore, some participants also shared information on their domestic jurisprudence relating to the application of the Organized Crime Convention.

37. One speaker described a challenge faced by the national courts in her country regarding the definition of proceeds of crime in money-laundering cases. She explained that consideration of the Organized Crime Convention in domestic jurisprudence had led to an amendment of the relevant money-laundering legislation to allow for a definition consistent with the Convention.

38. One speaker highlighted relevant provisions in her country's draft criminal code and criminal procedure code, including new provisions on jurisdiction and on the definitions of the terms "organized criminal group", "money-laundering" and "liability of legal persons", in line with the Organized Crime Convention.

39. Another speaker shared national experiences relating to the application of the Organized Crime Convention and its impact on national jurisprudence, including a court interpretation of article 15, on jurisdiction, of the Organized Crime Convention. The speaker also noted some similarities between the domestic judicial developments in her country and those shared by the panellists from Namibia and Singapore, including challenges related to duplication of charges.

40. One speaker shared information on the interpretation by the national courts in her country of article 5 of the Organized Crime Convention. The speaker explained that the courts had adopted a broader definition of the term "organized criminal group", as required under the Convention, and that the country's domestic law had no conditions on the structure of such groups, provided that there was evidence of having operated in a coordinated manner. To illustrate those aspects, the speaker shared three case studies on the definition of "organized criminal group" in her country's jurisprudence.

#### **D. Other matters**

41. At its 2nd meeting, on 9 July, the Working Group considered agenda item 4, on other matters. A representative of the Secretariat made a presentation.

#### **V. Adoption of the report**

42. On 10 July, the Working Group adopted the report on the meeting (chapters I–III and V).

## Annex

### **Discussion points for future consideration identified by the Chair of the Working Group of Government Experts on Technical Assistance**

#### **A. Updating the legislative records of States parties in preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

Stemming from the meeting, the following discussion points for future consideration were identified by the Chair of the Working Group of Government Experts on Technical Assistance:

(a) States that have not yet done so should update their legislative records in the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC), including for purposes of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;

(b) The United Nations Office on Drugs and Crime (UNODC) could develop a dissemination plan to raise awareness of the usefulness of the SHERLOC knowledge management portal;

(c) States may wish to consider inviting UNODC to assist in the capacity-building activities of national judicial institutions, including by providing training on the use of the SHERLOC portal as a source of information on domestic legislation and jurisprudence from various jurisdictions;

(d) States may wish to consider developing, publishing and providing to the Secretariat for publication on SHERLOC explanatory materials on legislation, such as explanatory memorandums developed during the introduction of the legislation and summarized legislative manuals or briefs that consolidate the relevant provisions of all applicable national legislation on organized crime;

(e) UNODC should consider expanding the SHERLOC knowledge management portal to include information on police-to-police cooperation;

(f) UNODC should continue to gather, disseminate and analyse information on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, with a focus on successful practices and the difficulties encountered by States in that regard, and to develop technical assistance tools on the basis of the information gathered;

(g) States may wish to consider providing extrabudgetary resources for the further development and maintenance of the SHERLOC knowledge management portal to promote the implementation of the Organized Crime Convention and the Protocols thereto and strengthen the exchange of lessons learned and challenges in the implementation of those instruments.

#### **B. Application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence**

Stemming from the meeting, the following discussion points for future consideration were identified by the Chair of the Working Group of Government Experts on Technical Assistance:

(a) In order to facilitate law enforcement and judicial cooperation, States should fully implement the Organized Crime Convention. In so doing, States may wish to request technical assistance from UNODC or from each other;

(b) States should consider strengthening the ability of law enforcement and criminal justice officers to conduct investigations and prosecutions of cases involving organized criminal groups, and to cooperate with international and regional counterparts;

(c) In implementing the provisions of article 6 of the Organized Crime Convention, States should consider reviewing their national legislation so as to facilitate efforts to address practical elements of criminalization of the laundering of proceeds of crime, including the requisite element of mens rea;

(d) States should consider requesting or providing training on mutual legal assistance and other forms of international cooperation in obtaining evidence and witness testimonies, including on predicate offences to money-laundering. Such assistance should at a minimum cover the relevant provisions of the Organized Crime Convention and include the obtaining of evidence, the preservation of stored computer data and the real-time collection of traffic data, if permitted under the basic principles of the domestic legal system;

(e) States should consider allocating sufficient resources to manage cases involving organized criminal groups in a streamlined and timely manner, to facilitate successful prosecution;

(f) In cases involving organized criminal groups, in particular complex cases involving transnational organized crime, States should consider developing prosecution plans as early as possible. Such plans could take into consideration the management of evidential and other issues, including procedures to address anticipated challenges;

(g) States should consider developing standard operating procedures in collaboration with court administrations and others to facilitate the effective management of cases involving organized criminal groups, as such cases may represent security and other logistical challenges. States may wish to include witness protection measures in such procedures;

(h) States that have not yet done so should consider making the decisions and opinions of their courts and tribunals concerning organized crime accessible to the public in order to further the aims of the Convention.

---