



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

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**Development of national strategies to address
transnational organized crime**

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Note by the Secretariat

I. Introduction

1. Pursuant to decision 2/6 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, the Working Group of Government Experts on Technical Assistance was established to perform the following functions: (a) review needs for technical assistance in order to assist the Conference on the basis of the information bases established by the Secretariat; (b) provide guidance on priorities based on multi-year programmes approved by the Conference and on its directives; (c) take into consideration, as appropriate and readily available, information on technical assistance activities of the Secretariat, as well as of States, and on projects and priorities of States, other entities of the United Nations system and international organizations, in the areas covered by the United Nations Convention against Transnational Organized Crime and the Protocols thereto; and (d) facilitate mobilization of potential resources. In its decision 4/3, the Conference decided that this working group should be a constant element of the Conference.

2. The present paper was prepared by the Secretariat to provide background information on the development of national strategies to address transnational organized crime and to aid the discussions of the Working Group.

* CTOC/COP/WG.2/2012/1.



II. Issues for discussion

3. The Working Group may wish to consider the need and potential benefits of developing overarching national strategies and action plans on organized crime. In the context of this discussion, the Working Group may wish to share experiences and good practices about those strategies and action plans that have been prepared on specific forms of organized crime and, in particular, for acts covered by the Protocols that have been established as offences. In particular, the Working Group may wish to consider the following issues as a basis for deliberations:

4. Would the implementation of the Organized Crime Convention be facilitated if States viewed it as a framework on the basis of which integrated and overarching strategies could be built, while keeping in mind the complementarity of the Convention and its Protocols and the fact that the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, cover distinct forms of organized crime and require particular legal and operational responses?

5. Why does it appear that so few States have developed overarching strategies against transnational organized crime? What benefits have accrued for States that have undergone a process of developing integrated and coordinated strategies related to acts covered by the Protocols that have been established as offences and other forms of organized crime, and what impact, positive or negative, have these strategies had on their national criminal justice systems, and also on regional and international cooperation?

6. If it has been beneficial to have strategies and action plans on specific forms of organized crime, would States still benefit from an umbrella strategy?

7. Do States monitor regularly new forms and modalities of organized crime and evaluate their responses thereto? If not, does this inhibit their capability to respond in a timely and effective way, and to cooperate with each other?

8. What are the elements that should be included in an overarching strategy; and what issues should be taken into account in devising a national strategy, also with regard to existing regional strategies?

III. Towards a more comprehensive and effective implementation of the United Nations Convention against Transnational Organized Crime: national strategies and approaches to organized crime, including possible benefits and approaches

9. In order to effectively address the ever-evolving and complex nature of transnational organized crime, and its consequent economic and social ills, a

multi-faceted and coordinated approach at all levels — national, regional and global — is required.

10. The Organized Crime Convention provides a broad framework to support criminal justice responses aimed at preventing and addressing the illicit activities of criminal groups and at depriving them of their assets.

11. The implementation of the Organized Crime Convention requires that States turn the Convention into action. In this regard, effective responses to and the prevention of transnational organized crime also require the involvement of and coordination with a range of Government and judicial institutions, as well as with academia, the private sector and civil society.

12. Many States have not, however, taken an integrated and comprehensive approach to addressing transnational organized crime and few have developed overarching organized crime strategies and action plans.

13. Furthermore, it appears that States have found it beneficial to develop national action plans related more broadly to crime prevention, countering corruption and countering terrorism. Some States have also developed strategies and action plans on specific forms of organized crime. There exist, for example, anti-drug strategies, which cover illicit supply of and demand for drugs, and national strategies covering the acts covered by the Protocols and established as offences.

14. With regard to acts covered by the Protocols and established as offences, although many States have developed national strategies and action plans in order to implement the Trafficking in Persons Protocol, few States have elaborated strategies to implement the Smuggling of Migrants Protocol. At the same time, some States have developed integrated national strategies and action plans to combat illicit firearms trafficking and manufacturing.

15. Article 2 of the Organized Crime Convention contains neither a precise definition of transnational organized crime, nor does it list the types of crimes that might constitute it. This lack of definition was intended to allow for a broad application of the Convention to new types of crimes, but it also requires that States monitor and evaluate new and emerging threats posed by criminal groups.

16. It is important to note that, in addition to the criminalization provisions and other legal and regulatory provisions, (including those on international cooperation in criminal matters), the Organized Crime Convention contains a number of provisions that could be valuable in crafting a broad strategy and which are also found in strategies to address the acts covered by the Protocols supplementing the Convention.

17. Article 28 recognizes the importance of information collection, exchange and analysis, which are essential to developing sound, evidence-based policies on preventing and responding to transnational organized crime.¹ At the law enforcement level, the ability to collect, evaluate and analyse data and information is part of a criminal intelligence process, which is a cross-cutting element of, and provides the backbone for, all law enforcement work.

¹ ECOSOC resolution 2002/13 on action to promote effective crime prevention also provides examples of the practical steps Governments should take to build that knowledge base.

18. At the judicial level, prosecutors, judges, central authorities, correction officials and others also require updated information and data on issues which may range from new forms and modalities of organized crime, to methods of investigations and their possible legal ramifications, to understanding the legal requirements and procedures of other States for the purposes of international cooperation, to new and good practices, including in case management, which would relate to their specific functions. This is an area that is also tied closely to the issue of capacity-building and training covered in article 30 of the Convention.

19. At the strategic level, the ability to carry out meaningful threat assessments is crucial to understanding the risks and threats posed by organized crime. A number of Member States and regional organizations conduct regular and periodical national (serious and) organized crime threat assessments (SOCTAs and OCTAs) using a multi-agency approach. At the regional level, for example, Europol conducts a yearly regional OCTA for the European Union. Such assessments help States and regions identify the risk factors, crime types, perpetrators and their collaborators and to generate the information and analysis needed to support intelligence-led policing and evidence-based policy. The information generated by such assessments in turn allows for determining priorities and allocating appropriate resources to meet those threats. In other words, such assessments can provide important evidence to inform national strategies.

20. The United Nations Office on Drugs and Crime (UNODC) has developed a methodology on how to conduct such assessments, which is contained in the guidance on the preparation and use of serious and organized crime threat assessments (the SOCTA Handbook and training module),² aimed at policymakers, law enforcement leaders and practitioners.³

21. Such national publications feed into regional and thematic transnational organized crime threat assessments (TOCTA) periodically conducted by UNODC, which investigate the challenges posed by organized crime within regions and also specific areas of organized crime. The regional TOCTAs look systematically at a series of transnational trafficking flows, describing the who, what, where, when, why and how of contraband markets. They are rooted in UNODC's statistical databases, but also depend upon the data reported by States. The reports, by providing details and estimates of the types, volumes and values of trafficking flows, supply decision makers with a basis for policies and prioritization. By discussing the wide social, economic, and political impact of transnational organized crime, they broaden the conversation to include stakeholders outside the criminal justice field.

22. Also, at the global level, in 2010, UNODC published its first Transnational Organized Crime Threat Assessment.⁴ Increasing the number of national SOCTAs

² See www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Manuals_Handbooks_Best_Practices.

³ UNODC organized a pilot training programme, for analysts from Panama, Costa Rica, Belize and Trinidad and Tobago, who were trained in the use of strategic analysis techniques in order to enable them to develop their own national SOCTAs. The courses were accompanied by awareness-raising meetings at Ministerial and Head of Agency levels to encourage the commissioning of such national assessments.

⁴ www.unodc.org/unodc/data-and-analysis/TOC-threat-assessments.html.

prepared by Member States would greatly assist in any such undertaking in the future, by providing accurate data to contribute to the global picture.

23. Academia, journalists and civil society also have an important role to play in providing information, research and fostering discussion and debate on a range of legal, social and economic issues that pertain to crime and organized crime.

24. Article 31 of the Organized Crime Convention is significant in that it provides examples of areas where States can establish, promote and evaluate national practices and policies aimed at prevention of organized crime. Specifically, article 31(2) notes that State Parties shall endeavour “to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime, through appropriate legislative, administrative or other measures”. It then suggests that this should focus on, among other things, the strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry; promoting the development of standards and procedures designed to safeguard the integrity of public and relevant private entities; and measures for the prevention of the misuse by organized criminal groups of legal persons and subsidies and licences granted by authorities for commercial activities.

25. Given the globalized and market driven nature of organized crime, it is increasingly imperative that States work with the private sector and industry to ensure the integrity of both public and private markets. In some cases, such as cybercrime and child pornography, the private sector should be a key partner in any national strategy or approach to dealing with such crimes.⁵

26. Organized crime and trafficking are often deemed “victimless” crimes and the average person may not see a connection between the illicit activities of criminal groups and their own lives. More should be done to raise awareness of the economic impact and social ills attributable to them in order to assist communities most affected to make the necessary link from the problems they face every day to the actions of these groups.

27. Article 31 also encourages States parties to make efforts to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime through mass media and measures allowing public participation in preventing and combating transnational organized crime.⁶

⁵ In April 2010, UNODC held a conference on public-private partnerships against transnational organized crime for the purpose of highlighting some good practices in specific areas of organized crime. Given the importance of the private sector in global markets, this is an area that requires further exploration and development.

⁶ UNODC has launched a public service announcement and media campaign against transnational organized crime, in preparation for the sixth session of the Conference. UNODC can support States that wish to use the public service announcement as a centrepiece around which their own national advocacy campaigns could be created.

IV. Towards a more comprehensive and effective implementation of the United Nations Convention against Transnational Organized Crime: possible elements of national strategies

28. National strategies might include the scope, nature and scale of the threat/risk from transnational organized crime; the aim and targets of a strategy, measures or mechanism for implementing a coordinated response, such as the establishment of an institutional framework, including national coordinating committees or commissions to develop and monitor action plans.

29. At the next level, such strategies/plans may include the need for new or revised legal frameworks, regulatory actions (including in the framework of anti-money-laundering), data collection and sharing, intelligence capabilities, research and analysis, communication and coordination among stakeholders, public education and awareness-raising, regional and international cooperation and partnerships, including border management, prevention, capacity-development of relevant governmental institutions/agencies and their personnel, the definition of mandates and accountability, as well as monitoring, oversight and evaluation.

30. The need for synergy between national and regional organized crime strategies should be noted. A regional strategy might provide a framework, in addition to that provided by the Organized Crime Convention for consideration in the development of national strategies

31. A regional strategy can be made more effective through the coordination and implementation of national strategies within a region. This would be especially valuable for regions facing a common threat from organized criminal activities.

32. Some regional organizations have, through their members, developed regional strategies against transnational organized crime to encourage their members to develop overarching national strategies and action plans. In order to promote regional and international cooperation to address the threats posed by transnational organized crime most effectively, States in a region may wish to consider enhancing their collaboration and coordination that could be achieved from having both national and regional strategies.