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

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Review of the implementation of the United Nations Convention against Transnational Organized Crime

Implementation of the United Nations Convention against Transnational Organized Crime: information received from States for the second reporting cycle

Analytical report of the Secretariat

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I. Introduction

A. Mandate of the Conference of the Parties

1. In its decision 2/1, adopted at its second session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided that in order to support its periodic review of implementation of the Convention, information should be collected on, inter alia, the following topics:

(a) Money-laundering (art. 7 of the Convention);

(b) Investigation of cases of transnational organized crime (arts. 19, 20 and 26;

(c) Protection of witnesses and victims (arts. 24 and 25);

(d) International law enforcement cooperation (art. 27);

(e) Preventive measures (art. 31).

2. In the same decision, the Conference of the Parties requested the Secretariat to collect information from States parties and signatories to the Convention necessary for the analysis of the topics, using for that purpose questionnaires developed in accordance with guidance provided by the Conference at its second session; requested States parties to the Convention to respond promptly to the second questionnaire circulated by the Secretariat; invited signatories to provide the information requested; and requested the Secretariat to submit to the Conference at its third session an analytical report based on the responses to the questionnaires.

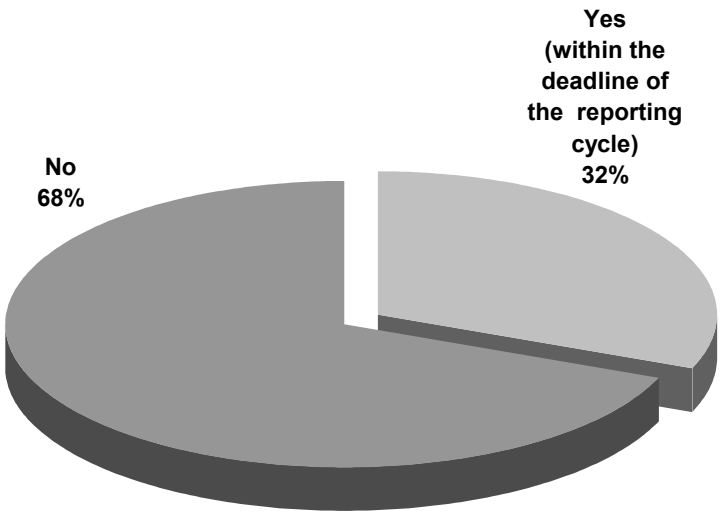
B. Reporting process

3. A draft questionnaire on the implementation of the Convention (CTOC/COP/2005/L.4) was brought to the attention of the Conference of the Parties at its second session, for review and comments. The final text of the questionnaire, as approved by the Conference, was disseminated to States parties and signatories to the Convention with a view to obtaining the required information in accordance with decision 2/1.

4. In an information circular dated 4 May 2006, the Secretariat reminded States parties to the Convention of their obligation to provide information and invited signatories to do likewise at their earliest convenience, but not later than 20 May 2006.

5. As at 24 July 2006, the Secretariat had received responses from 44 States,[1] of which 39 were parties to the Convention and 5 were signatories. As at the same date, 122 ratifications had been received. It thus follows that, as the figure below demonstrates, only 32 per cent of States parties had responded to the questionnaire, many of them also providing copies of their relevant legislation.

United Nations Convention against Transnational Organized Crime: States parties responding to the questionnaire for the second reporting cycle



6. A breakdown by regional group of Member States that responded to the questionnaire on the implementation of the Convention, as well as Member States that did not submit replies, is provided in document CTOC/COP/2006/13.

C. Scope and structure of the report

7. The present analytical report contains a summary and a first analysis of the replies to the relevant questionnaire disseminated by the Secretariat and highlights the progress made towards meeting the requirements set out in the Convention and, at times, the difficulties that States have been facing in implementing its provisions.

8. The structure of the report is based on decision 2/1 of the Conference of the Parties. The report thus contains information on legislative, administrative or other practical measures taken at the national level to combat money-laundering; and measures related to the investigation of cases of transnational organized crime. It also includes information on matters related to the protection of witnesses and victims; matters related to international law enforcement cooperation; and matters related to preventive measures.

9. The present report does not purport to be comprehensive or complete, as it reflects the situation in approximately one third of the States parties to the Convention.

II. Overview of reported national action for the implementation of the Convention provisions under consideration

A. Measures to combat money-laundering

1. Domestic measures (questions 1-3)

(a) Criminalization of the laundering of the proceeds of crime

10. Criminalization of the laundering of proceeds of crime pursuant to article 6 of the Convention was addressed under the first reporting cycle (see CTOC/COP/2005/2/Rev.1, paras. 22-29).[2]

(b) Establishment of a domestic regulatory and supervisory regime

11. Paragraph 1 (a) of article 7 (Measures to combat money-laundering) of the Convention requires States parties to institute a domestic regulatory and supervisory regime for the deterrence and detection of all forms of money-laundering. This regime should be applicable to banks, non-bank financial institutions and, when appropriate, other bodies particularly susceptible to money-laundering. The interpretative notes to the official records (*travaux préparatoires*) of the negotiations for the Convention and the Protocols thereto[3] indicate that other bodies may be understood to include intermediaries, which in some jurisdictions may include stockbroking firms, other dealers of securities, currency exchange bureaux or currency brokers.

12. The vast majority of States (the exceptions being Azerbaijan, Morocco (pending legislation) and Poland) reported the existence of such a regime and provided details on its content.[4] Most States indicated that their domestic regime was applicable to banks and financial institutions (Croatia, Estonia, Germany, Guatemala, Mexico, Myanmar, New Zealand, Norway, Portugal, Serbia and Montenegro, Slovenia, Spain, Sweden, Tunisia, Turkey, the United States of America and Zimbabwe).

(c) Specific requirements under the regulatory regime

13. Article 7, paragraph 1 (a), of the Convention requires the regulatory regime to be comprehensive and to emphasize customer identification, record-keeping and the reporting of suspicious transactions. According to the interpretative notes, suspicious transactions may include unusual transactions that are inconsistent with the customer's business activity, exceed the normally accepted parameters of the market or have no clear legal basis and could constitute or be connected with unlawful activities.

Customer identification

14. All States that responded to the question and whose legislation was not pending stated that customer or client identification was indeed required in domestic legislation, in accordance with the Convention. The requirements for such identification, however, varied in nature and in scope. Most States required identification of physical and legal persons, with relevant documentation and

verification. Ecuador reported that identification was required for all transactions irrespective of nature, client or amount. Indonesia and Mexico indicated a general obligation for banks to be familiar with their customers under the "know-your-customer" principle, as did Canada, under guidelines provided by its financial intelligence unit. Among those States submitting details, identification of clients was almost always required at the initiation of business or commercial relations, usually consisting in the opening of an account. Several States required, in addition, identification of usual or regular clients.[5] Germany and Latvia indicated that identification was required for clients also when reporting institutions accepted financial resources or valuables for safe-keeping on their behalf. Several States also reported that identification was required when the transaction in question was above a certain threshold amount, generally the equivalent of 10,000-15,000 euros.[6] Transactions in foreign currency were subject to identification in certain States (Bulgaria), as were transactions that gave rise to suspicion of money-laundering and/or terrorism financing (in Belgium, the Czech Republic, Finland, Latvia, Norway, Peru, Portugal and Slovenia).

Record-keeping

15. All States providing a response to the question indicated that record-keeping was required in domestic legislation. A number of States indicated that business and accounting records generally had to be kept (the Czech Republic, Ecuador, Indonesia, Italy, South Africa, Spain, Sweden and Tunisia). A few States (Italy and Latvia) reported that such records were to be filed in a centralized database maintained by the national financial intelligence unit of that country, while another (Indonesia) indicated that there was no such centralized database. Regarding the records themselves, several States specifically required that data concerning clients be kept by the relevant institutions.[7]

16. A majority of States indicated a specific period of time for the maintenance of such records before they could be destroyed. Among those States, most reported that records were to be kept for five years following the cessation of business or commercial relations or transactions or the date of the last transaction.[8] Croatia specified that, though reporting institutions were to maintain such records for a period of five years, the Croatian Financial Intelligence Unit was to keep them for a period of 10 years. Similarly, Spain indicated that all documents relating to transactions and identification were to be held for five years, with the possibility of a longer period in certain cases provided for by law. Sweden noted that documents concerning identification of customers were to be kept for five years after termination of the relationship, but legal persons had to maintain records on transactions for 10 years under its accounting legislation. Italy reported that all information was to be filed in the centralized database within 30 days and retained for 10 years; Mexico and Tunisia also indicated that the period for maintaining records was 10 years (from termination of accounts); the Macao Special Administrative Region of China (SAR) indicated that the period was 10 years from the date of the transaction; and Slovenia indicated that the period was 12 years from the date such records were obtained.

Reporting of suspicious transactions

17. The vast majority of responding States (39) stated that their domestic regulatory and supervisory regime required bodies susceptible to money-laundering to report suspicious transactions, in accordance with the Convention. Only Afghanistan reported that it had no such requirement, without giving any further details. A few States (Belgium, the Czech Republic, Ecuador, Finland and Tunisia) indicated that all suspicious transactions were to be reported, without specifying criteria for grounds of suspicion. The majority of responding States provided details as to the nature of such suspicious transactions and criteria for the reporting requirement to the national financial intelligence unit, or another relevant authority.

18. Among the criteria for determining the suspicious nature of a transaction, several States (China (Macao SAR), Guatemala, Honduras, Indonesia, Latvia and Mexico) referred to transactions taking place with an unusual or non-habitual client. Among transactions involving usual customers, Indonesia reported that criteria for suspicion also included financial transactions deviating from the profile, characteristics or usual patterns of the customer concerned, and transactions performed by customers with reasonable suspicion that they were done so for the purpose of avoiding reporting. Peru, Spain, Sweden and the United States also indicated that abnormal activity or volume of transactions for regular clients was a factor for raising suspicion.

19. As far as the transaction itself was concerned, several States reported a threshold amount for reporting. Bulgaria indicated that transactions of over 30,000 euros and cash payments of over 10,000 euros were to be reported; Croatia stated that transactions concerning amounts over 14,000 euros were subject to identification and those over 27,000 euros were to be forwarded to the national financial intelligence unit within three days. Spain indicated that the decree implementing its legislation on money-laundering provided for monthly reporting of certain transactions, including those involving amounts over 30,000 euros and transactions involving certain designated States. Other States indicated that transactions attracting suspicion in general terms were to be reported. Guatemala noted for example that transactions which were non-significant but regular, without an evident economic or legal basis, had to be reported; similarly, Spain referred to transactions where there was no economic, professional or commercial justification. Indonesia mentioned transactions with assets reasonably suspected of constituting the proceeds of crime. Italy reported that according to its legislation against money-laundering, every transaction that led to the belief that the money, assets or benefits involved might be derived from an intentional crime must be reported to the head of the business, who then must transmit the report, without delay and, where possible, before carrying out the transaction, to the national financial intelligence unit. Latvia indicated a list of elements of an unusual transaction that might be employed as evidence of money-laundering or its attempt, including criteria for notification to the relevant authorities. In the same vein, Slovakia reported a list of criteria for identifying suspicious clients and transactions that could be adjusted to reflect changes in money-laundering methods.

20. While most States indicated that such transactions were to be reported to the relevant financial intelligence unit, Algeria reported that suspicious transactions were to be notified to the prosecuting authorities. The Czech Republic stated that

such transactions were reported to the Ministry of Finance. Estonia indicated that reporting to its national financial intelligence unit on the suspicion of money-laundering or terrorism financing was subject to exception for notaries, auditors and advocates when they were at the stage of evaluating a case. Tunisia noted that reporting institutions also had immunity from prosecution or civil responsibility if they fulfilled their obligations in good faith. A number of States provided specific information as to the time frame for performing reporting obligations. Of those States, Croatia reported that the relevant information was to be forwarded to its national financial unit within three days; Italy (as mentioned in para. 19 above) and Latvia indicated that such transactions were to be notified "without delay". Slovenia stated that information relating to reporting obligations was to be forwarded to its national financial intelligence unit without delay and not later than 15 days after receiving the request for such information, whereas Peru indicated a time frame of 30 days for reporting. Finland further reported that transactions were to be suspended upon suspicion and reported to its money-laundering clearing house.

21. Several States (Belgium, Bulgaria, China (Macao SAR), Germany, Mexico, New Zealand, Slovakia, Slovenia and Spain) indicated that the violation of reporting requirements was subject to administrative fines. Canada reported that cases of non-compliance with reporting obligations could be referred to the appropriate law enforcement agency by its financial intelligence unit, incurring a fine for failure to report a prescribed transaction. Egypt, Myanmar, Norway, Peru and Turkey indicated that failure to comply with reporting requirements was punishable by imprisonment and/or a fine.

(d) Cooperation at the national level: financial intelligence units

22. Paragraph 1 (b) of article 7 of the Convention requires States parties to ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering have the ability to cooperate and exchange information at the national level. Parties are required to consider establishing, to that end, a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

23. The vast majority of States indicated that they had provided for cooperation and exchange of information at the national level. Afghanistan answered in the negative, further specifying that such cooperation was in its initial stages but exceedingly difficult to carry out. Furthermore, all of the above-mentioned States, except for one, indicated the existence of a financial intelligence unit, under one form or another, or the existence of some other relevant institution, tasked with the processing of information concerning money-laundering, at the national level. Only China specifically noted the absence of such an institution in Macau SAR.

24. The institutional foundation of financial intelligence units differed among States. Several States indicated units attached to central banks (Afghanistan, Guatemala, Italy and Tunisia); within the Ministry of Finance (Slovenia); within the prosecution authorities or bureau of investigation (Estonia, Finland, Latvia and Slovakia). The Czech Republic and Ecuador provided a list of several competent authorities in this respect. Most States reported that the relevant financial intelligence units collected information submitted under reporting requirements, or sought information themselves, and liaised between the different ministries and

government agencies (Belgium, Italy, Slovenia, South Africa and Spain). Further, certain States reported obligations for such units to collect relevant information and keep records (see para. 16 above).

(e) Implementation of measures addressing cross-border movements of cash and negotiable instruments

25. Parties are required, under article 7, paragraph 2, of the Convention to consider the implementation of feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding the movement of legitimate capital.

26. A majority of States reported that they had implemented measures concerning cross-border movements of cash and negotiable instruments (35 States in total, including mainland China). Three States (Belarus, Morocco and Poland) did not provide any answer and several others (Afghanistan, Belgium, China (Macao SAR), Finland and Sweden) responded in the negative without offering further details.

27. Among those States reporting the implementation of such measures, several referred to customs legislation and regulations governing the flow of cash and negotiable instruments in and out of States, as well as specific criteria and thresholds for information to be reported.[9] Canada indicated that currency or monetary instruments subject to disclosure for import or export from the country would be forfeited in case of a failure to report them but could be retrieved upon the payment of a penalty, absent a suspicion that such funds were linked to money-laundering or terrorism financing. Germany also noted that cash and negotiable instruments in excess of 15,000 euros were to be disclosed and that customs officers could seize such funds for up to three days when facts suggested that they derived from criminal activities. Some States (Croatia, Estonia, Peru and Portugal) reported specific reporting obligations for customs administration or control services to national financial intelligence units.

2. International cooperation (questions 23 and 24)

28. The requirement, under paragraph 1 (b) of article 7 of the Convention, that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering should be able to cooperate and exchange information applies at both the national level (see para. 22 above) and the international level.

29. While the issue of national coordination was addressed above, the Convention further requires that relevant authorities should be able to cooperate at the international level. Poland and the former Yugoslav Republic of Macedonia provided no answer to this question and Afghanistan specifically responded in the negative without providing further details. The 40 remaining responding States indicated that their legal operational framework did enable such cooperation; most of them submitted details on such cooperation. Most States referred to general and specific legislative provisions governing such cooperation and reported that their competent national financial intelligence unit was enabled to this effect. Tunisia, for example, further indicated that memorandums of understanding could be signed by its national financial intelligence unit and its foreign counterparts, provided that

they were held to professional secrecy and only involved the prevention and repression of relevant offences.

30. States parties are required by paragraph 4 of article 7 of the Convention to endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

31. Many States reported the existence of cooperation at different levels and among different authorities to combat money-laundering; however, several States (Azerbaijan, Kuwait, Morocco, Poland and the former Yugoslav Republic of Macedonia) did not provide any response and two States (Afghanistan and Slovenia) replied that they had no such cooperation without submitting further details. Serbia and Montenegro only indicated that its Ministry of Justice was competent for such cooperation. The rest of the responding States (35) replied in the affirmative, with most providing details on existing cooperation mechanisms.

32. Most States indicated they were members of the Financial Action Task Force on Money Laundering;[10] the Egmont Group of Financial Intelligence Units;[11] or the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe (Moneyval) (Bulgaria, Croatia, the Czech Republic, Estonia and the former Yugoslav Republic of Macedonia). Several States reported participation in regional or subregional mechanisms ranging from European Union-based cooperation through the European Police Office (Europol) and Eurojust, to the Asia/Pacific Group on Money Laundering, or regional Latin American mechanisms.[12] Most States also indicated cooperation at the bilateral level governed by specific memorandums of understanding.

B. Measures related to the investigation of transnational organized crime

1. Domestic measures

(a) Special investigative techniques

33. Paragraph 1 of article 20 (Special investigative techniques) of the Convention requires States parties to allow in their territory for the appropriate use by their competent authorities of controlled delivery and other special investigative techniques, such as electronic surveillance and undercover operations, for the purpose of effectively combating organized crime. That requirement is subject to the basic principles of each party's domestic legal system, as well as to the capacities of each party and to the conditions prescribed by its domestic law.

34. Most responding States[13] reported that their legislation allowed competent authorities to use controlled delivery, electronic or other forms of surveillance, as well as undercover operations, for the purpose of combating organized crime. Egypt, Guatemala, Indonesia and Tunisia reported that their legislation did not allow the use of any of those investigative techniques. Guatemala indicated that a bill on combating organized crime would come into force soon and would allow compliance with the provisions of the Convention. Ecuador reported that, of the special investigative methods referred to under paragraph 1 of article 20, only controlled delivery was authorized. In Mexico, only electronic and other forms of

surveillance were authorized; and in Peru controlled deliveries and undercover operations were authorized, at the exclusion of electronic and other forms of surveillance. Furthermore, Peru indicated that those investigative techniques were provided only for use in the fight against illicit drug trafficking.

35. Reporting on the sources of legislative authorization for the use of special investigative techniques, States referred to laws on investigation (Bulgaria, Estonia, Latvia and Zimbabwe), laws on combating organized crime (China (Macao SAR), Mexico and Turkey), criminal and criminal procedure acts or codes (Belgium, Bulgaria, Canada, Estonia, Germany, the Netherlands, Slovenia and Turkey) and, in relation to the use of controlled delivery, to their legislation on drug control and money-laundering (Canada, Peru and Turkey). While some States stressed that law enforcement authorities had no immunity from liability for unlawful conduct committed in good faith in the course of investigation and therefore needed a legislative authorization for such conduct, others (New Zealand, Norway and the United States) indicated that the use of specific investigative techniques (controlled delivery and/or undercover operations), while not based on an explicit legislative authorization, was not prohibited by law and had been endorsed by national courts' jurisprudence.

36. Belgium, Canada, the Czech Republic, Estonia and Slovakia emphasized that the use of special investigative techniques needed to be governed by the principles of subsidiarity and proportionality: such techniques should be resorted to only for the investigation of serious offences and only if other investigative methods were not available to reach the same results. Canada stressed that law enforcement activities, including the use of special investigative techniques, were governed by internal police policy and codes of conduct and subject to judicial review and that abuse of process and other breaches of individual rights might lead to the judicial staying of proceedings against the accused. With respect to undercover operations, a number of States emphasized that incitement to commit the offence under investigation was not permissible and could lead to criminal liability of law enforcement officers.

37. Most States reported that the use of special investigative techniques, or some of them,[14] required prior authorization by the investigating prosecutor or by the judge. Such authorization was obtained by police or other law enforcement authorities upon written request and was in certain cases limited in time (for example, six months for electronic surveillance in Slovakia). Several States provided information on emergency procedures, whereby authorization could be given a posteriori under certain conditions.

(b) Measures to encourage cooperation with law enforcement authorities

38. Paragraph 1 of article 26 (Measures to enhance cooperation with law enforcement authorities) of the Convention, requires States parties to take appropriate measures to encourage persons who participate or have participated in organized criminal groups to supply information useful to competent authorities for investigation and evidentiary purposes and to provide concrete help to competent authorities in depriving organized criminal groups of the proceeds of crime. Parties are in particular required under paragraphs 2 and 3 of article 26 to consider providing for the possibility of mitigated punishment and of immunity from

prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established pursuant to the Convention.

39. Afghanistan, Belgium, Finland, Guatemala, Indonesia and Sweden reported that they had no measures in place to encourage persons involved in organized criminal groups to cooperate with law enforcement authorities. Finland and Sweden stressed that the granting of mitigating circumstances could be considered only when the offender had attempted to prevent, remedy or limit the harmful consequences of his or her own crime.

40. All other responding States confirmed that their legislation provided for the possibility of mitigating the punishment of a person who had provided substantial cooperation to law enforcement authorities. That was provided for under general provisions of the criminal code or criminal procedure code dealing with mitigating circumstances (e.g. in Latvia, Myanmar, Norway, Portugal and Turkey) or under provisions of specific laws dealing with organized crime (e.g. in Mexico and Tunisia, which referred to their laws on combating terrorism and money-laundering).

41. A number of responses provided details on what qualified as "substantial" cooperation: such cooperation should be of the sort that prevents further offences to be committed or that allows offences to be detected, offenders to be arrested and evidence to be collected when it would otherwise have been impossible. Turkey referred to the provision of its criminal code on effective remorse and indicated that it covered cooperation extended before the launching of an investigation or before the commission of a crime and that the offender was thereafter subject to one year of probation. Several States indicated that it was left to the judge to take collaboration into account when deciding on punishment and that the importance of the information provided and its contribution to the detection of the offence would be evaluated on a case-by-case basis.

42. The possibility to grant to cooperating offenders immunity from prosecution was less frequently reported. Azerbaijan, Bulgaria, the Czech Republic, Ecuador, Georgia, Germany, Italy, Norway, Portugal, Slovenia and Spain (in addition to the States that had no measures in place to encourage cooperation of offenders) indicated that they excluded the granting of immunity. Estonia and Slovakia indicated that the decision to grant immunity from prosecution resulted from a balance struck between the interest of detecting and prosecuting serious offences and the interest of prosecuting the cooperating offender. Some States (Estonia and Germany) indicated that immunity could be granted only for minor offences (i.e. not for offences established pursuant to the Convention) or offences carrying penalties under a certain threshold. Canada reported that the granting of immunity was provided as a matter of prosecutorial discretion and was subject to limits or conditions as deemed appropriate in each individual case by the prosecuting authority.

2. International cooperation

(a) Joint investigations

43. Article 19 (Joint investigations) of the Convention requires States parties to consider concluding bilateral or multilateral agreements on the establishment of joint investigative bodies, in relation to matters that are the subject of

investigations, prosecutions or judicial proceedings in one or more States. Article 19 also encourages parties, in the absence of such agreements, to undertake joint investigations on a case-by-case basis.

44. Most responding States[15] indicated that they carried joint investigations on serious cases of transnational organized crime, both on the basis of bilateral or multilateral agreements and, in the absence of such agreements, on a case-by-case basis. Afghanistan, China (Macao SAR), Guatemala, Mexico and Peru reported that they had no practical experience in establishing joint investigative bodies or in carrying out joint investigations on a case-by-case basis. Mexico indicated, however, that coordination of investigations at the international level was allowed under its domestic legal framework. Peru reported that its financial intelligence unit could cooperate in international investigations and the exchange of information related to money-laundering and the financing of terrorism.

45. A number of responding States[16] reported that joint investigations could be undertaken exclusively on the basis of agreements and arrangements that they had concluded in this respect but could not be undertaken on an ad hoc basis, in the absence of an agreement. Others[17] indicated that, while they had concluded no agreement in this area, their domestic legal framework enabled them to undertake joint investigations on a case-by-case basis.

46. States reported that the undertaking of joint investigations on an ad hoc basis, in the absence of a formal agreement, was authorized under their domestic legislation on criminal investigations (in Portugal and Sweden), on mutual legal assistance (in Indonesia, Myanmar and South Africa) or under their criminal procedure act (in Tunisia). In many cases, the State indicated that it considered and dealt with requests from another State for carrying out joint investigations in the same manner as requests for mutual legal assistance.[18]

47. Many States reported that the undertaking of joint investigations and the setting up of joint investigative teams were provided for under bilateral police cooperation and mutual legal assistance agreements and arrangements they had concluded with neighbouring States, Canada and the United States, for instance, provided information on their integrated border enforcement teams, set up to target cross-border criminal activity in a harmonized approach and involving a partnership with local government and law enforcement agencies.

48. Many States also referred to regional treaties enabling or providing for joint investigations, such as the Council of the European Union Act establishing the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union,[19] and the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations,[20] Council of the European Union framework decision 2002/465/JHA on joint investigation teams,[21] the cooperation agreement between Nordic police chiefs, the Inter-American Convention on Mutual Assistance in Criminal Matters and the treaty on mutual legal assistance in criminal matters among like-minded Association of Southeast Asian Nations (ASEAN) members.

49. Reference was furthermore made to the mandate and role of regional networks and organizations, such as Europol, Eurojust, the Nordic police cooperation network and ASEAN, in facilitating the coordination of cross-border investigations among

Member States. At the international level, the role of Interpol was emphasized by most responding States.

(b) Use of special investigative techniques

50. Paragraph 2 of article 20 (Special investigative techniques) of the Convention encourages States parties to conclude, when necessary, bilateral and multilateral agreements for using special investigative techniques at the international level. Under paragraph 3 of article 20, States parties are also encouraged, in the absence of an agreement for the use of special investigative techniques, to take decisions on such use on a case-by-case basis, taking into account financial arrangements and understandings with respect to the exercise of jurisdiction.

51. Most States that reported that the use of special investigative techniques was allowed at the national level indicated that provision was also made for the use of such techniques at the international level, either through bilateral or multilateral agreements or on a case-by-case basis. Among the States that had reported that the use of special investigative techniques was authorized at the national level, only Afghanistan, Egypt and Estonia excluded such use at the international level. Afghanistan indicated that although legislation allowed controlled deliveries to pass through its territory, that possibility had not been used in practice for lack of bilateral or multilateral agreements to that effect.

52. Reporting on agreements and arrangements concluded on the international use of special investigative techniques, States mostly referred to the bilateral and regional agreements on police cooperation and mutual legal assistance already mentioned in relation to joint investigations (see paras. 43-49 above), indicating that they provided the basis for carrying out controlled deliveries, undercover operations and cross-border surveillance. Reference was made, in addition, to relevant memorandums of understanding and cooperation concluded within the Black Sea Economic Cooperation Organization and the Southern African Regional Police Chiefs Cooperation Organization of the Southern African Development Community. Cooperation agreements concluded for the fight against drug trafficking, as well as against money-laundering and the financing of terrorism, were also mentioned by several States.

53. Many States indicated that the use of special investigative techniques upon request by another State constituted a form of mutual legal assistance. Those States whose domestic legislation authorized the granting of mutual legal assistance in the absence of a treaty reported that they were in a position to use a number of special investigative techniques, such as controlled delivery, gathering of evidence through covert operations, placing tracking devices and recording dialled numbers, as forms of mutual legal assistance.

(c) Measures to encourage cooperation with law enforcement authorities

54. Paragraph 5 of article 26 of the Convention provides States parties with the option of entering into agreements whereby measures to encourage cooperation of accused persons with law enforcement authorities would be provided by a State party to an accused person located on the territory of another State party.

55. Canada, Egypt, Latvia, New Zealand, Slovakia and South Africa indicated that they had entered into agreements to that effect. Slovakia reported that it had

concluded such agreements with member States of the European Union and with other Eastern European countries. Canada indicated that such arrangements could be considered at the law enforcement level by the national police in consultation with the prosecuting authority. Ecuador reported having concluded agreements on the transfer of persons sentenced abroad to imprisonment, in order that they may complete their sentences in their home country (pursuant to art. 17 of the Convention).

(d) Law enforcement cooperation

56. Paragraph 1 of article 27 (Law enforcement cooperation) of the Convention requires States parties to strengthen their mutual law enforcement cooperation. Paragraph 1 refers to the enhancement of channels of communication between competent authorities for the secure and rapid exchange of information on offences covered by the Convention (subpara. (a)), cooperation in conducting inquiries on the identity of suspect persons and on proceeds of crime (subpara. (b)), the provision of items and substances for analytical and investigative purposes (subpara. (c)), coordination between competent authorities, the exchange of personnel and the posting of liaison officers (subpara. (d)), the exchange of information on means and methods used by organized criminal groups (subpara. (e)) and the exchange of information for the purpose of early identification of offences (subpara (f)).

57. Paragraph 2 of article 27 encourages States parties to consider entering into bilateral or multilateral agreements on direct cooperation between their law enforcement agencies. In the absence of such agreements, States parties are encouraged to consider the Convention as the basis for mutual law enforcement cooperation.

58. Virtually all responding States[22] confirmed that channels of cross-border communication, coordination and cooperation were available to and routinely used by their law enforcement agencies. Many indicated that cooperation between law enforcement authorities was formalized through bilateral or regional agreements, providing for the exchange of information on offences, offenders and proceeds of crime.

59. A number of States indicated that specific law enforcement authorities, such as customs agencies or financial intelligence units, had their own channels of communication and cooperation. Reference was made to the role of the Egmont Group as a network facilitating international cooperation among financial intelligence units.

60. A number of States referred to regional cooperation networks (such as Europol, the Southeast European Cooperative Initiative or the Pacific chiefs of police network) and regional shared information systems (such as the Schengen Information System (SIS)[23] or the ASEAN Electronic Database System).

61. Many States emphasized that Interpol and the Interpol national central bureaux, were the main channels used by law enforcement bodies to exchange information and cooperate with foreign authorities beyond bilateral and regional networks. Reference was made in particular to the 24 hours a day, 7 days a week, global (“I-24/7”) system of police communications, through which information on offenders and transnational criminality was being shared, and to Interpol databases on criminals and stolen property.

62. Many States emphasized the posting of liaison officers as an effective means of law enforcement coordination. Liaison officers from various law enforcement agencies (police, customs, intelligence and drug control) were being posted in neighbouring countries, or in countries requiring significant cooperation, to facilitate the maintenance of lines of communication, as well as training. States also reported on hosting liaison officers, as well as receiving ad hoc visits of investigators, from other countries.

63. Paragraph 3 of article 27 encourages States parties to cooperate in responding to transnational organized crime committed through the use of modern technology. Most of the responding States (the exceptions being Afghanistan, Ecuador, Mauritius, Myanmar and Peru) confirmed that their competent authorities had been involved in international law enforcement cooperation to combat criminal activities committed through the use of modern technology. Some States indicated that they had established national computer crime units and had designated within the police a focal point for requests for international cooperation aimed at countering cybercrime. Reference was also made to Interpol activities to combat information technology crime and to the Group of Eight network of international law enforcement contacts available to respond to crimes using or targeting networked computer systems.

C. Measures related to the protection of witnesses and victims

64. Measures related to the protection of witnesses and victims are discussed in the present section. The analytical report of the Secretariat on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementary Convention (CTOC/COP/2006/6), contains information on matters related to the provision of assistance and protection to victims of trafficking in persons.

1. Domestic measures

65. The Convention recognizes the importance of witness protection, both as an end in itself and as a means of ensuring the willingness of witnesses to cooperate in reporting crime and providing the evidence needed to prosecute and convict offenders. Article 23 (Criminalization of obstruction of justice) requires parties to criminalize the use of physical force, threats or intimidation to induce false testimony or interfere in the giving of testimony or the production of evidence in a proceeding related to the commission of an offence covered by the Convention. Such criminalization is a prerequisite for the effective protection of witnesses. For the first reporting cycle, parties have reported on legislation adopted to comply with the provisions of article 23 (see CTOC/COP/2005/2/Rev.1, paras. 35-39).

66. Paragraph 1 of article 24 (Protection of witnesses) requires States parties to take measures to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by the Convention. Each State party, however, has a discretion to decide which measures are appropriate, and the phrase “within its means” acknowledges that available resources and technical capabilities of a State may limit the scope of the measures taken.

67. On the question of whether their domestic legal system enables the provision of protection from potential retaliation or intimidation for witnesses in criminal proceedings, 33 States[24] reported that protection of witnesses was provided for under their legislation. Afghanistan, China (Macao SAR), Indonesia, Morocco, Myanmar and Sweden reported that the protection of witnesses was not provided for by their domestic legal system. Myanmar indicated, however, that its Anti-Trafficking in Persons Act of 2005 included provisions on the protection of witnesses. Sweden indicated that at the time of reporting there was only a general responsibility of the police to protect the public; however, a bill establishing a "national system for personal security", which was to enter into force soon, would address security needs of threatened persons, including witnesses participating in preliminary investigations or trials concerning organized criminality, as well as police officers and police informants.

68. With the exception of Egypt, Kuwait and Peru, all States that provided for witness protection measures under their legal system indicated that such protection extended to relatives or other persons close to the witness, in accordance with the terms of article 24, paragraph 1, of the Convention. Most of the reporting States defined relatives or persons close to the witness as spouses, children, siblings, parents, persons living permanently with the witness, grandparents, adoptive children or parents, as long as their life, physical or mental integrity, freedom or property were endangered. Some States reported that not only witnesses and their families, but also informants, experts and judges were protected persons. Sweden indicated that protection of relatives of witnesses was being considered in a bill that was to enter into force (see para. 67 above).

69. Paragraph 2 of article 24, of the Convention provides examples of specific measures that may be considered under witness protection programmes: procedures for the physical protection of witnesses such as relocating them and permitting limitations on the disclosure of their identity and whereabouts (subpara. (a)); and evidentiary rules permitting witness testimony to be given while ensuring the safety of the witness, for instance through video links (subpara. (b)). The establishment of procedures for the physical protection of witnesses was indicated by most of the States that reported having taken witness protection measures.[25] The most frequently reported procedure was the non-disclosure of identity or place of residence or workplace of the witness (in Canada, Latvia, Mexico, New Zealand, South Africa and the United States). Other measures included changing the identity of the witness (in Canada, Estonia, Latvia and Slovakia), changing the appearance through plastic surgery (in Estonia), providing personal protection (in the Czech Republic and Latvia), providing security personnel to protect the residence and workplace of the witness (Guatemala, Kuwait and Latvia), providing self-defence equipment (Estonia), providing new telecommunications coordinates (Estonia), providing protection of correspondence and protection against wiretapping of conversations (Latvia), relocating and providing assistance in social integration (the Czech Republic, Latvia, Norway and Slovakia) and transferring the witness to another country on the basis of an agreement (Latvia and Slovakia).

70. The adjustment of evidentiary rules to ensure the safety of witnesses was reported by almost all States (the exceptions being Ecuador, Egypt, Kuwait and Mexico) that had indicated that their domestic legislation provided for the protection of witnesses. Many States reported that they permitted witness testimony

through videoconference (Belgium, the Czech Republic, Estonia, Italy, Mauritius, Sweden and Tunisia), through telephone conference (Belgium, Sweden, and the former Yugoslav Republic of Macedonia), outside the courtroom (Canada and Sweden) and behind a protection screen (Canada and Norway); and many reported that they were able to prevent the identity or other personal information about the witness from being revealed in the records (Canada and Sweden), to conceal the identity or appearance of the witness (the Czech Republic and the United States), to exclude the defendant from the courtroom (the Czech Republic, Norway and Sweden), to exclude the public from the hearing (Germany and the United States), to record by audio-visual means an examination prior to the main hearing (Germany, Guatemala and Sweden) or to permit anonymous testimony (Belgium and Norway) or testimony with disguised voices (Slovenia). Many States emphasized the need to protect the defendant's right to due process and reported that a defendant could not be convicted on the sole basis of evidence given outside the courtroom. Some States indicated that the witness revealing his or her identity was a prerequisite to his or her ability to testify.

71. Article 25 (Assistance to and protection of victims) requires States parties to take appropriate measures to provide assistance to and protection of victims of offences covered by the Convention, in particular in cases involving threat of retaliation or intimidation. All reporting States except Finland and Mauritius indicated that assistance to and protection of victims of offences was provided for under their domestic legislation. Finland indicated that victims could receive legal assistance and Mauritius noted that, while it had no specific legislation on the protection of victims, victims were protected in so far as they were witnesses.

72. On the question of whether domestic legislation established appropriate procedures to provide access to compensation and restitution for victims, 31 States[26] indicated that such procedures were established under their legislation, while Afghanistan, Guatemala, Indonesia, Portugal and Serbia and Montenegro reported that that was not the case. Many States (including Guatemala) reported that victims, as civil parties in criminal proceedings, could demand reparation. The restitution of and compensation for damages caused by a criminal offence were accordingly part of the sentence. In other States, victims had to start civil action after the completion of criminal proceedings to receive reparation. Such proceedings could also be started if the offender was not identified or could not be convicted. Finland, Latvia, Norway, Slovakia and Sweden reported that in certain circumstances compensation and restitution could be received from the State. South Africa indicated that compensation could be drawn from the proceeds of crime confiscated from the offender. Belgium and South Africa reported on the establishment of a special fund for victims of crimes. Reparation and compensation could normally be obtained for loss of property, moral damage, physical damages, lost income, career rehabilitation measures, psychological and therapeutic measures and, in the case of death, for the benefit of surviving dependants.

73. Article 25, paragraph 3, of the Convention requires States parties to enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence. Most reporting States (exceptions being Afghanistan, Kuwait, Mauritius, Peru, Portugal and Serbia and Montenegro) reported that they complied with that requirement. All reporting States emphasized the need to guarantee the

right of the accused to a fair trial, including the right to be informed, the right to participate in the proceedings at any moment, to provide comments on the testimony of a witness or submit evidence and views and the right to adequate legal representation. A number of States stressed that victims had the status of parties (civil parties) to the proceedings and had the right to present their views. In Portugal, victims were allowed to participate in the proceedings with the status of accessory public prosecutors, which entailed a number of procedural rights. In Canada, the victim was entitled to present a victim impact statement where damages caused by the criminal offence were being declared and the continuing impact of the crime on life and safety concerns were being described.

2. International cooperation

74. Article 24, paragraph 3, of the Convention requires States parties to consider entering into agreements or arrangements with other States for the relocation of witnesses and victims, in order to ensure their physical protection from potential retaliation or intimidation. Ten States[27] reported having concluded such agreements and arrangements, while 21 States[28] indicated that they had not. Many States reported that such matters were encompassed under agreements on mutual legal assistance in criminal matters. A number of European States referred to treaties within the European Union. The United States indicated that cooperation in relocating witnesses and/or victims was decided on a case-by-case basis. South Africa reported that it was able to cooperate with witness protection units of other countries even in the absence of a formal agreement.

75. A total of 17 States[29] reported having concluded bilateral or multilateral agreements or arrangements on mutual legal assistance pursuant to article 18, paragraph 18, of the Convention, which provides for the possibility of conducting a hearing by videoconference where it is not feasible or desirable for the witness to appear in person before the judicial authorities of the foreign State. Belgium, the Czech Republic, Finland, Germany and Sweden referred to cooperation based on the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. The United States indicated that it provided such assistance although videotaped testimony was not allowed in its courts. All of the States that provided for the legal possibility of conducting a hearing by videoconference confirmed that they also had technical facilities to support hearings by videoconference.

D. Measures to prevent transnational organized crime

1. Domestic measures

76. Paragraph 1 of article 31 (Prevention) of the Convention requires States parties to endeavour to develop and evaluate national projects and to establish and promote best practices and policies aimed at the prevention of transnational organized crime.

77. Most States provided information on multi-year national action plans, strategies and projects addressing the prevention of organized crime in general or specific forms of criminality, in particular human trafficking and smuggling of illegal migrants,[30] corruption,[31] drug trafficking[32] and money-laundering.[33] Reference was also made[34] to bilateral agreements on the prevention of organized

crime, as well as to regional networks such as the European Crime Prevention Network.

78. Article 31, paragraph 2, of the Convention requires States parties to endeavour to reduce opportunities for organized criminal groups to participate in lawful markets with proceeds of crime.

79. Many States[35] reported in this respect that they had taken measures to promote cooperation between their law enforcement or prosecuting authorities with relevant private entities. Many[36] also indicated having developed standards to safeguard the integrity of public and private entities, as well as codes of conduct for public servants and codes of ethics for relevant professions of the private sector.

80. Reporting States also provided information on measures adopted to prevent the misuse of legal persons by organized criminal groups. In many States,[37] public records on legal and natural persons involved in the establishment, management and funding of legal persons were established. Many States[38] also indicated that, under their criminal code, disqualifying offenders from exercising certain functions or professions was provided for and that it was therefore possible to disqualify them for a definite period of time from acting as directors of legal persons. However, in a number of States[39] where such disqualification was possible, there were no integrated records of persons thus disqualified and there was therefore no possibility to exchange such information with competent authorities of other parties.

81. Paragraph 3 of article 31 requires States parties to endeavour to promote the reintegration into society of persons convicted of offences covered by the Convention.

82. All the responding States except Afghanistan, Kuwait and Mauritius confirmed that their legal system provided for measures for the rehabilitation and social reintegration of offenders. Many[40] specifically referred to provisions of their laws on prison administration and execution of sentences, as well as their criminal and criminal procedure codes, addressing the preparation of prisoners in view of their release and reintegration into society. The measures mentioned included the encouragement of academic studies and vocational training, the provision of assistance in finding housing and employment, the provision of temporary housing and the provision of land for housing and cultivation. A number of States[41] also referred to probation measures and the granting of parole. In this respect, it should be noted that the provisions of article 31 on the social reintegration of offenders are to be considered in combination with paragraph 4 of article 11, Prosecution, adjudication and sanctions, requesting States parties to ensure that their courts bear in mind the seriousness of offences covered by the Convention when considering the eventuality of early release or parole of convicted offenders.

83. Paragraph 4 of article 31 requires States parties to endeavour to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups.

84. Many States[42] indicated that such a review, in particular the review of relevant legislation, was periodically taking place. Some States[43] reported that they were in the process of assessing the adequacy of their criminal code, criminal procedure code, legislation against money-laundering or laws for the suppression of terrorism and were preparing amendments thereof, or that such amendments had recently been

adopted. Slovakia indicated that each draft law proposed by the Government was systematically scrutinized from the point of view of its impact on organized crime. Several States reported on intergovernmental task forces and similar mechanisms meeting regularly to review instruments and practices to combat organized criminal groups.

85. Paragraph 5 of article 31 requires States parties to endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime, as well as public participation in preventing and combating such crime.

86. Some States emphasized the particular importance of raising public awareness and promoting the participation of society in dealing with specific forms of criminality such as corruption and human trafficking and delineated some of their initiatives in those areas. Many States referred to the publication by the Ministry of the Interior, Ministry of Justice or police authorities of yearbooks and periodical reports, informing the public of trends and threats regarding organized crime and of activities carried out to counter criminality. Sweden mentioned that it was possible for the public to report crime anonymously.

2. International cooperation

87. Paragraph 6 of article 31 of the Convention requires States parties to inform the Secretary-General of the contact details of the authority that could assist other parties in developing measures to prevent transnational organized crime. A number of States parties have transmitted the names and addresses of their competent national authorities at the time of depositing their instruments of ratification of or accession to the Convention. Others provided such information in completing the questionnaire for the second reporting cycle. Reference should be made in this respect to the note by the Secretariat on the development of an online directory of central authorities and options for the effective use of legislation furnished under the Convention (CTOC/COP/2006/12).

88. Paragraph 7 of article 31 requires States parties to collaborate with each other and relevant international organizations in promoting and developing preventive measures. Many States indicated that they were involved in cooperation programmes or projects aimed at preventing transnational organized crime or specific forms of criminality. They referred specifically to their participation in regional networks, such as the Task Force on Organized Crime in the Baltic Sea Region, the New Partnership for Africa's Development, Asia Regional Cooperation to Prevent People Trafficking and the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Mention was also made of technical assistance preventive projects carried out in cooperation with UNODC.

III. Concluding remarks

89. While far from being comprehensive or representative, due to persistent under-reporting, the second reporting cycle has permitted some conclusions to be drawn. The status of compliance with the requirements of the Convention for a comprehensive anti-money laundering regime is quite advanced. It appears that most measures are in place and the level of awareness and knowledge is steadily

growing. This has no doubt been brought about also by the need to comply with the relevant instruments against terrorist financing, as well as by the efforts of regional or international organizations in continuing to accord high priority to this matter. This encouraging development would greatly facilitate the consideration of the subject by the Conference of the Parties at its third session. More importantly, the Conference would be in a position to build on a solid base should it wish to begin a more in-depth assessment of the efficacy and efficiency of the regimes already in place at the national and international levels.

90. The first two reporting cycles have produced a significant knowledge base when their results are taken and analysed together. The Conference of the Parties is encouraged to use that knowledge base in connection with its work on technical assistance, at this stage through the operation of the open-ended working group that it has established. The Conference may wish to deliberate on taking the next step of a more in-depth review of the implementation of the Convention while, at the same time, seeking the most appropriate ways to address the problem of its ability to obtain sufficient information from States.

Notes

[1] In accordance with General Assembly resolution 60/264 of 28 June 2006, the Republic of Montenegro was admitted as the 192nd Member of the United Nations. On 3 June 2006, the President of the Republic of Serbia notified the Secretary-General that the membership of the State Union Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system, was continued by the Republic of Serbia, which remained responsible in full for all the rights and obligations of the State Union Serbia and Montenegro under the Charter of the United Nations.

[2] Morocco had also indicated, further to its responses to the questionnaire for the first reporting cycle, that such legislation was under consideration and had yet to be adopted. Azerbaijan had stated in the first reporting cycle that laundering the proceeds of crime was not criminalized in its legislation but it only responded to the portion of the questionnaire for the second cycle addressing international cooperation in combating money-laundering. Poland had indicated in its response to the questionnaire for the first reporting cycle that laundering the proceeds of crime was criminalized in its domestic legislation, but it did not provide further responses concerning money-laundering in the second reporting cycle.

[3] *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations publication, Sales No. E.06.V.5).

[4] Within the ambit of this response, several States responded concerning the relevant national financial intelligence unit. Those responses are addressed in paragraph 22.

[5] Belgium, Canada, China (mainland and Macao SAR), Croatia, Egypt, Finland, Germany, Guatemala, Honduras, Italy, Kuwait, Mauritius, Mexico, Myanmar, New Zealand, Norway, Peru, Portugal, Slovenia, South Africa, Spain, Sweden, Tunisia, Turkey, United States and Zimbabwe.

[6] Belgium, Bulgaria, the Czech Republic, Estonia, Finland, Italy, Latvia, New Zealand, Portugal and Slovenia.

[7] Algeria, Finland, Guatemala, Italy, Latvia, Peru, Slovenia, Slovakia, South Africa, Spain, Sweden and Tunisia.

[8] Belgium, Bulgaria, Canada, China (mainland), Croatia, Egypt, Estonia, Finland, Honduras,

Myanmar, New Zealand, Norway, Peru, Portugal, Slovakia, Turkey and the United States.

[9] China (mainland), Croatia, Egypt, Estonia, Germany, Guatemala, Indonesia, Latvia, Mauritius, Mexico, Myanmar, New Zealand, Norway, Peru, Portugal, South Africa, Spain, Turkey, the United States and Zimbabwe.

[10] Algeria (member of the Middle East and North Africa Financial Action Task Force (MENAFATF)), Belgium, Canada, China (mainland, as an observer), Finland, Germany, Mexico, New Zealand, Peru (member of the Financial Action Task Force of South America against Money Laundering (GAFISUD)), Portugal, Slovakia, South Africa, Spain and Turkey.

[11] Belgium, Bulgaria, Canada, Croatia, the Czech Republic, Estonia, Finland, Germany, Indonesia, Mexico, New Zealand, Peru, Portugal, Serbia and Montenegro, Slovakia, Spain, Sweden and the former Yugoslav Republic of Macedonia.

[12] Canada, China (mainland and Macao SAR), the Czech Republic, Ecuador, Finland, Georgia, Germany (Council of Europe, Europol) Guatemala, Honduras (regional treaty on mutual legal assistance in criminal matters), Indonesia, Latvia, Mexico, New Zealand (Asia/Pacific Group on Money Laundering), Portugal, Slovakia, Slovenia and Turkey.

[13] Afghanistan, Algeria, Belgium, Bulgaria, Canada, China (Macao SAR), the Czech Republic (signatory), Estonia, Finland, Georgia (signatory), Germany, Italy, Kuwait, Latvia, Mauritius, Myanmar, the Netherlands, New Zealand, Norway, Portugal, Slovakia, Slovenia, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, the United States and Zimbabwe (signatory).

[14] Controlled delivery (Georgia, Myanmar and Slovakia), electronic surveillance, surveillance through tracking devices or surveillance in breach of substantial citizen rights such as inviolability of the home, secrecy of correspondence or private conversations (Canada, the Czech Republic, Mexico, New Zealand, Slovakia and the United States), undercover operations (China (Macao SAR), Germany and Slovakia).

[15] Algeria, Bulgaria, Ecuador, Finland, Indonesia, Italy, Latvia, Mauritius, Myanmar, Norway, Portugal, Slovenia, South Africa, Spain, Sweden, Tunisia, the United States and Zimbabwe.

[16] The Czech Republic, Germany, Serbia and Montenegro, Slovakia and Turkey.

[17] Estonia, Georgia and New Zealand.

[18] Information on the parties' legal framework for granting mutual legal assistance is contained in document CTOC/COP/2005/2/Rev.1.

[19] *Official Journal of the European Communities*, C 197, 12 July 2000.

[20] *Official Journal of the European Communities*, C 24, 23 January 1998.

[21] *Official Journal of the European Communities*, L 162/1, 20 June 2002.

[22] For details of responses with respect to the different points of article 27, see document CTOC/COP/2006/4.

[23] A secure governmental database system used by several European countries for the purpose of maintaining and distributing data related to border security and law enforcement.

[24] Algeria, Azerbaijan, Belgium, Bulgaria, Canada, the Czech Republic (signatory), Ecuador, Egypt, Estonia, Finland, Georgia, Germany, Guatemala, Italy (signatory), Kuwait, Latvia, Mauritius, Mexico, the Netherlands, New Zealand, Norway, Peru, Portugal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, the United States and Zimbabwe (signatory).

[25] The exceptions were Algeria, Egypt, Finland and Mexico, which indicated that procedures for the physical protection of witnesses had not been established. Mexico, however, reported that in practice relocation measures had been taken with a view to protecting witnesses.

[26] Algeria, Azerbaijan, Belgium, Bulgaria, Canada, the Czech Republic, Ecuador, Egypt, Estonia, Finland, Georgia, Germany, Italy, Latvia, Mauritius, Mexico, Myanmar, the Netherlands, New Zealand, Norway, Peru, Slovakia, Slovenia, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, the United States and Zimbabwe.

[27] Bulgaria, Canada, the Czech Republic, Estonia, Latvia, New Zealand, Norway, Serbia and Montenegro, Sweden and the United States.

[28] Afghanistan, Algeria, Belgium, China (both mainland and Macao SAR), Ecuador, Egypt, Germany, Guatemala, Italy, Mauritius, Mexico, Myanmar, the Netherlands, Peru, Portugal, Slovenia, South Africa, Spain, the former Republic of Macedonia, Turkey and Tunisia.

[29] Belgium, Bulgaria, China (mainland), the Czech Republic, Estonia, Finland, Germany, Latvia, the Netherlands, Norway, Serbia and Montenegro, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Tunisia and the United States.

[30] Canada, Myanmar and the former Yugoslav Republic of Macedonia.

[31] Canada, Georgia, Italy, the former Yugoslav Republic of Macedonia and Turkey.

[32] Canada and Myanmar.

[33] Canada, Guatemala, Italy, Morocco, Myanmar, New Zealand, Peru, the former Yugoslav Republic of Macedonia, Tunisia and Turkey; see also paragraphs 10-32 of the present document.

[34] By Indonesia, Kuwait and Mauritius.

[35] Algeria, Bulgaria, Estonia, Finland, Georgia, Germany, Guatemala, Indonesia, Italy, Latvia, Mauritius, Mexico, Myanmar, New Zealand, Peru, Portugal, Serbia and Montenegro, South Africa, Sweden, Tunisia, the United States and Zimbabwe.

[36] Algeria, Azerbaijan, Belgium, Bulgaria, the Czech Republic, Estonia, Finland, Georgia, Germany, Indonesia, Italy, Latvia, Mauritius, Mexico, Myanmar, New Zealand, Peru, Portugal, Serbia and Montenegro, South Africa, Sweden, the former Yugoslav Republic of Macedonia, Tunisia, the United States and Zimbabwe.

[37] Algeria, Azerbaijan, Belgium, Bulgaria, the Czech Republic, Ecuador, Estonia, Georgia, Guatemala, Indonesia, Italy, Latvia, Mauritius, New Zealand, Peru, Portugal, Serbia and Montenegro, South Africa, Spain, Sweden, Tunisia, the United States and Zimbabwe.

[38] Algeria, Azerbaijan, Belgium, Bulgaria, the Czech Republic, Ecuador, Estonia, Georgia, Germany, Indonesia, Italy, Kuwait, Latvia, Mauritius, Mexico, Morocco, New Zealand, Norway, Peru, Portugal, Serbia and Montenegro, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Tunisia, the United States and Zimbabwe.

[39] Belgium, Mauritius, Mexico, Morocco, Peru and Portugal.

[40] Algeria, Estonia, Finland, Georgia, Latvia, New Zealand, Portugal, South Africa, the former Yugoslav Republic of Macedonia and Tunisia.

[41] The Czech Republic, Estonia, Latvia, Slovakia and the United States.

[42] Algeria, Bulgaria, Canada, China (mainland), the Czech Republic, Indonesia, Italy, Latvia, Mauritius, Myanmar, the Netherlands, New Zealand, Norway, Peru, Portugal, Slovakia, South Africa, Spain, Sweden, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, the United States and Zimbabwe.

[43] New Zealand, Norway, Sweden and the former Yugoslav Republic of Macedonia.