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Technical assistance

Proposals for technical assistance activities designed to meet the needs identified in the priority areas determined by the Conference

Working paper prepared by the Secretariat

I. Introduction

1. By decision 2/6 adopted at its second session, held from 10 to 21 October 2005, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime established an open-ended interim working group to advise and assist it in the implementation of its mandate on technical assistance. The Open-ended Interim Working Group of Government Experts on Technical Assistance met during the third session of the Conference, held from 9 to 18 October 2006, and adopted a series of recommendations, including recommendations on priorities for technical assistance. By its decision 3/4, the Conference endorsed those recommendations and requested its secretariat to submit proposals for technical assistance activities designed to meet the needs identified by the Working Group in the priority areas and to submit them to the Working Group for consideration at its meeting to be held before the fourth session of the Conference.

2. The Working Group met in Vienna from 3 to 5 October 2007 (see CTOC/COP/2008/7). It considered the proposals for technical assistance activities developed by the Secretariat and defined, in accordance with the priorities determined by the Conference, five priority areas as follows: (a) gathering information on the implementation of the United Nations Convention against Transnational Organized Crime,¹ the Protocols thereto;² (b) strengthening criminal

* CTOC/COP/2008/1.

¹ United Nations, *Treaty Series*, vol. 2225, No. 39574.



justice responses to organized crime based on the Convention and the Protocols thereto; (c) international cooperation and establishment or strengthening of central authorities for mutual legal assistance and extradition; (d) data collection; and (e) implementation of the Protocols to the Convention. The Working Group outlined various types of assistance within that framework and requested the Secretariat to submit to the Conference, at its fourth session, proposals for specific technical assistance activities.

3. In response to that request, the present working paper sets out proposals for technical assistance that, once endorsed by the Conference, could be carried out in the coming three years, from 2009 to 2011. The note by the Secretariat on budgetary and financial matters (CTOC/COP/2008/17) includes a costing of the proposals.

II. Gathering information on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

4. With regard to gathering information on the implementation of the Convention and the Protocols thereto, the Working Group requested its secretariat: (a) to develop immediately an efficient and user-friendly information-gathering tool in the form of an interim computer-based checklist; (b) to ensure that the checklist did not depart from the substantive content of the questionnaires instituted by the Conference under the two reporting cycles in order to avoid duplication of effort for States that had already reported through the questionnaires; (c) to forward the checklist to States that had not responded to the existing questionnaires and encourage them to use it and to provide their responses sufficiently in advance of the fourth session of the Conference in order that the Secretariat may complete the analytical reports requested by the Conference; and (d) to begin developing comprehensive software-based information-gathering tools for the Convention and each of its Protocols, accompanied by a guide facilitating the use of the tools, and to report on its efforts to the Conference at its fourth session.

A. Current technical assistance activities on the development of tools to gather information from States

1. Interim computer-based checklist

5. The Secretariat developed, within existing resources, an interim computer-based checklist in English, French and Spanish. It presented the checklist to Member States at the seventeenth session of the Commission on Crime Prevention and Criminal Justice, held in Vienna from 14 to 18 April 2008, and sent

² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime and 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 (United Nations, *Treaty Series*, vols. 2237, 2241 and 2326, No. 39574).

the final version of it as a CD-ROM to the States parties and signatories to the Convention on 21 May 2008, together with an illustrated user guide.³ Additional responses and updated information provided by States based on the checklist are reflected in the revised analytical reports of the Secretariat on the implementation of the Convention and the Protocols thereto, which consolidate information received from States for the first and second reporting cycles (CTOC/COP/2005/2/Rev.2, CTOC/COP/2005/3/Rev.2, CTOC/COP/2005/4/Rev.2, CTOC/COP/2006/2/Rev.1, CTOC/COP/2006/7/Rev.1 and CTOC/COP/2006/8/Rev.1).

2. Comprehensive software

6. The Secretariat has begun development of a comprehensive software-based information-gathering tool covering the Convention and the Protocols thereto and the United Nations Convention against Corruption.⁴ The comprehensive software is expected to be finalized in late 2009 and to be presented to the Conference of the States Parties to the United Nations Convention against Corruption at its third session and, subject to the decision of the Conference of the Parties to the United Nations Convention against Organized Crime at its current session, to that Conference at its fifth session.

7. Detailed information on the development of the interim checklist and of the comprehensive software is before the Conference in document CTOC/COP/2008/2.

B. Proposed technical assistance activities on information-gathering

1. Support to States in fulfilling their reporting obligations

8. The interim checklist appears to have facilitated, and the comprehensive software is expected to further facilitate, the provision of information requested by the Conference. Nonetheless, reporting on the implementation of the Convention and the Protocols thereto and providing updated information remains a burden for a number of States that lack human, administrative or technical capacity for the task.⁵

9. The Secretariat proposes to take advantage of workshops and training seminars it organizes on various aspects of the Convention and the Protocols thereto to add, where appropriate, a session on reporting requirements. Focal points in States responsible for coordinating and communicating with the Secretariat on reporting obligations, who are usually officers involved in the substantive implementation of the Convention, could be invited to attend and receive immediate support in filling in the checklist, use of the software and updating information. This approach has been successfully tested at a regional workshop on strengthening international legal cooperation to combat transnational organized crime among countries in West and

³ The checklist is available on the website of the United Nations Office on Drugs and Crime (<http://www.unodc.org/unodc/en/treaties/CTOC/index.html#Checklist>).

⁴ United Nations, *Treaty Series*, vol. 2349, No. 42146.

⁵ The following States indicated (while filling in the questionnaire or checklist) that they needed assistance to fulfil their reporting obligations: Albania, Algeria, Burundi, Cambodia, Cameroon, Chad, Ecuador, Gabon, Guinea, Indonesia, Moldova, Namibia, Niger, Philippines, Sao Tome and Principe and Tajikistan. In addition, it may be assumed that those States parties which have not provided any information under the two reporting cycles also need assistance to comply with their reporting obligations.

Central Africa, held in Senegal in June 2008, during which representatives of 20 States, with the support of the secretariat, filled in the checklist and six States updated information previously provided.

2. Expansion of the legal library

10. The questionnaires, checklists and other means have allowed the Secretariat to gather a considerable amount of legislation adopted to implement the Convention and the Protocols thereto, focusing on legislation on trafficking in persons, firearms and witness protection, including in the context of developing model legislation in those areas. The Secretariat proposes to make these resources widely accessible to all States, thereby promoting mutual disclosure by States of their legislative status. It proposes to expand the scope of the existing library maintained by the United Nations Office on Drugs and Crime (UNODC) of legislation adopted to give effect to the international drug control conventions (<http://www.unodc.org/enl/index.html>) to cover legislation adopted to give effect to the Organized Crime Convention and the Protocols thereto. The library already covers cross-cutting issues such as money-laundering, confiscation, mutual legal assistance, extradition, controlled delivery and undercover operations and is linked to the Anti-Money-Laundering International Database (<https://www.imolin.org/amlid/index.html>). It allows for documents to be searched, downloaded and exported. This expansion will require the legal library to be upgraded and modernized.

3. Human resources for the management of information

11. The interim checklist has been developed within existing resources by a dedicated team of interns and volunteers overseen by a short-term, junior level consultant. The Secretariat will need additional human and financial resources in order to work on: (a) the maintenance, updating and exploitation of the information already gathered; (b) exploring and utilizing synergies with other reporting exercises (see CTOC/COP/2008/2, para. 17, for information on the development of information-gathering tools); (c) the technical enhancement of the information-gathering tools; (d) support to States and follow up on their reporting obligations; and (e) the expansion and upgrading of the legal library, thereby enabling the Conference to establish an adequate knowledge base to carry out its mandate.

C. The way forward

12. Article 32 of the Convention provides that the Conference shall acquire the necessary knowledge of the measures taken by parties in implementing the Convention and the difficulties encountered by them in doing so, for the purpose of reviewing implementation of the Convention and making recommendations to improve the Convention and its implementation.

13. Information-gathering is accordingly a means towards the objective of review of implementation. States parties have made considerable efforts to provide information to the Conference and the secretariat has endeavoured to gather and analyse it. Due to a lack of review methods and mechanisms, the information gathered has not so far been systematically used to feed a structured review of

implementation or recommendations to improve the Convention and its implementation. The Conference when considering information-gathering and possible mechanisms to review implementation will have the opportunity to remedy that situation, thereby giving full meaning and impact to the information-gathering process.

III. Strengthening criminal justice responses to organized crime based on the United Nations Convention against Transnational Organized Crime and the Protocols thereto

14. With regard to the strengthening of criminal justice responses to organized crime based on the Convention and the Protocols thereto, the Working Group requested the Secretariat to submit to the Conference, at its fourth session, proposals for specific technical assistance activities, in particular in the following areas: (a) providing legal expertise and legislative assistance in key areas of the Convention and its Protocols and developing focused model legislation in such areas as appropriate; (b) developing legislative tools and training material to build the capacity of the criminal justice system; (c) building capacity and providing assistance in witness and victim protection procedure and practice; (d) building capacity in legislation, procedure and practice regarding joint investigations and special investigative techniques; and (e) facilitating exchange of information on good practices in criminal justice responses to organized crime, based on the Convention and its Protocols.

A. Current technical assistance activities on strengthening criminal justice responses to organized crime

1. Strengthening the administration of justice and the rule of law

15. Technical assistance provided by UNODC to strengthen criminal justice responses to organized crime includes fundamental assistance for the establishment of fair, humane and efficient criminal justice institutions, in line with existing standards and norms in crime prevention and criminal justice, and the strengthening of the rule of law. Both of these are prerequisites to the effective implementation of the Convention and its Protocols and indeed of all drug control and crime conventions.⁶

16. In post-conflict settings, UNODC assistance aims at both building specialized expertise to address organized crime and trafficking threats and addressing the lack of basic public service in the justice sector. In Guinea-Bissau, for instance, the programme entitled “Combating and preventing drug trafficking to and from Guinea-Bissau: promoting the rule of law and the effective administration of justice” combines strengthening of border controls, building specialized expertise

⁶ It should be noted that UNODC is part of the United Nations system-wide Rule of Law Coordination and Resource Group, consisting of the key United Nations organizations working on rule of law assistance. Within the Group, UNODC is the lead entity on the issues of transnational organized crime, trafficking and corruption (see A/61/636-S/2006/980 and Corr. 1).

within the judicial police to combat trafficking and building capacity to prosecute and sentence traffickers, with support provided for penal reform and measures to improve access to justice. Building on that example, integrated programmes have been developed or are under development, along similar lines, for other post-conflict settings, including Haiti, the Democratic Republic of the Congo and countries in West Africa.

2. Legislative assistance and model legislation

17. Legal services provided by UNODC headquarters and in the field include, upon request, evaluation, gap analysis and advice on existing legislation; support for drafting or amending legislation and advice to parliamentarians, on request; provision of training and working tools to judges, prosecutors and other key practitioners to apply domestic legislation; and assistance in dealing with practical implementation problems in domestic or international casework. Since the entry into force of the Convention, UNODC has been providing legal advice and assistance towards implementation of the Convention and its Protocols to a number of States, including Angola, Armenia, Azerbaijan, Cape Verde, Costa Rica, Ecuador, Equatorial Guinea, Georgia, Ghana, Guatemala, Honduras, Madagascar, Mauritius, Mongolia, Mozambique, Panama and Peru.

18. Work on the development of model legislation has been undertaken on several fronts. Model laws and related commentaries on trafficking in persons and on justice in matters involving child victims and witnesses of crime are currently being finalized and are expected to be issued during the last quarter of 2008. A model law on witness protection is also currently being drafted. First steps have also been taken, within available resources, to develop model legislation for the implementation of the Migrants Protocol and the Firearms Protocol.

3. Building legal expertise on emerging crimes

19. In early 2007, UNODC conducted a study on identity-related crimes, approaching them as distinct criminal offences rather than from the traditional perspective of only criminalizing activities perpetrated using false identities. Based on the recommendations of the study and the advice of a core group of experts brought together in 2007, UNODC has been according priority to the following areas: (a) acting as a broker to identify needs for technical assistance and assemble appropriate experts from the public and private sectors to respond accordingly; (b) development of materials on matters associated with legislative measures, international cooperation and prevention of identity-related crime as a basis for future technical assistance activities.

20. UNODC is exploring, in partnership with relevant stakeholders, the feasibility of providing assistance to criminal justice systems to address computer-related crime in the context of the Convention. With the Korean Institute of Criminology, UNODC has been developing a Virtual Forum against Cybercrime, located on a digital platform.⁷ The objective of the Forum is to provide to countries in Asia and at a later stage to developing countries in other regions, training courses and

⁷ Since 2005, four meetings of experts have been held in cooperation with the Korean Institute of Criminology and a fifth meeting is scheduled to take place on 30 and 31 October 2008 in Seoul.

technical advice on the prevention and investigation of cybercrime, with a focus on effective law enforcement and judicial cooperation.

4. Witness and victim protection

21. In the area of witness protection, in addition to working on the development of a model witness protection law and a model agreement on international cooperation in the relocation of at-risk witnesses, UNODC launched in February 2008 a publication entitled *Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime* (available at <http://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf>).⁸ The tool was developed from information obtained through a series of regional meetings with representatives from law enforcement, prosecutorial and judicial authorities of Member States. It provides for a series of measures that may be taken to ensure a continuum of protection, starting with early identification of vulnerable and intimidated witnesses, moving through the management of witnesses by the police and enactment of measures to protect the identity of witnesses during court testimony and culminating in the adoption of the exceptionally severe measures of permanent relocation and creation of a new identity.

5. Joint investigations

22. UNODC will be convening a meeting of experts in Vienna in September 2008 to consider the legal and practical issues surrounding the establishment of joint investigation bodies and undertaking of joint investigations pursuant to article 19 of the Convention. The working group will consider current practice and formulate guidance on cases that would benefit from a joint investigation; on how a joint investigation should be structured and managed; on the effects of joint investigations on traditional law enforcement cooperation and international cooperation in criminal matters; on the need for joint investigation agreements (with a view to the preparation of model agreements); and on legal regimes and frameworks needed for the establishment of joint investigations. The report of the meeting will be before the Conference in a conference room paper.

B. Proposed technical assistance activities on strengthening criminal justice responses to organized crime

1. Strengthening capacity to combat organized crime in post-conflict settings

23. In recognition of the threat that organized crime poses to the peacebuilding process and the re-establishment of democratic institutions in countries emerging from conflict, UNODC proposes the following activities, to be undertaken in cooperation with relevant United Nations bodies, such as the Department of Peacekeeping Operations and the Peacebuilding Support Office of the Secretariat and the Peacebuilding Commission: (a) developing specific methodologies to assess the impact of activities of organized criminal groups in post-conflict countries; (b) exploring the development of an early warning system to identify and address issues, trends and activities that could endanger the rule of law and stability of

⁸ The publication is being translated into Arabic, Farsi, French, Russian and Spanish.

countries emerging from conflict; (c) developing training materials and curricula on organized crime, corruption and trafficking (in human beings or firearms, for example) for civilian police officers and rule of law experts deployed in peacekeeping missions; and (d) collecting best practices in combating organized crime in post-conflict situations and in integrating suppression and prevention of organized crime into the peacebuilding agenda.

2. Provision of legal advice and legislative assistance

24. The Convention and its Protocols have been in force for various periods of up to 5 years⁹ and have achieved a significant level of adherence among Member States.¹⁰ UNODC considers the provision of legal advice and legislative assistance for the incorporation of their provisions into domestic legal frameworks as one of its most urgent duties.

25. In response to the request included in the questionnaires and checklist that States should identify their technical assistance needs, the following States parties or signatories to the Convention have requested assistance from UNODC in assessing existing legislation and drafting new legislation in compliance with the Convention and/or the Protocols thereto: Algeria, Benin, Cameroon, Chad, China, Costa Rica, Czech Republic, Comoros, Dominican Republic, Ecuador, El Salvador, Guinea, Jamaica, Madagascar (building on assistance already provided), Malaysia, Maldives, Mauritius, Mongolia, Nigeria, Philippines, Senegal, South Africa and Zimbabwe. Specific issues identified include cybercrime, money-laundering, international cooperation in criminal matters, confiscation, trafficking in persons, smuggling of migrants and firearms control. The above list of requesting States is far from exhaustive, because requests for legislative assistance are also received by UNODC field offices or communicated during training activities. In addition to responding to individual requests for assistance, UNODC proposes to approach States that lack basic legislation to address organized crime (bearing in mind that organized criminal groups are often tempted to exploit such situations) and States located in areas that are particularly affected by specific forms of trafficking.

26. UNODC's comparative advantage in delivering high-quality advice and assistance in the implementation of the Convention and the Protocols thereto builds on its expertise related to the instruments and its accumulated experience in providing legislative assistance using a holistic approach. Of particular value is the ability of UNODC to provide integrated legal assistance to strengthen criminal justice capacity to respond, domestically and through international cooperation in criminal matters, to various forms of serious crime, as covered not only by the Convention and its Protocols but also by the drug control conventions and the Convention against Corruption and drawing on United Nations standards and norms in crime prevention and criminal justice.

⁹ Date of entry into force are as follows: Organized Crime Convention, 29 September 2003; Trafficking in Persons Protocol, 25 December 2003; Smuggling of Migrants Protocol, 28 January 2004; and Firearms Protocol, 3 July 2005.

¹⁰ At the time of drafting the present note, there were 146 parties to the Organized Crime Convention, 122 parties to the Trafficking in Persons Protocol, 114 parties to the Smuggling of Migrants Protocol and 75 parties to the Firearms Protocol.

27. However, contributions of Member States to finance the legal advisory activities of UNODC have been decreasing, thus calling into question the capacity of UNODC to provide much needed, frequently requested and greatly appreciated legislative assistance. Consideration is now being given to ways and means to enhance UNODC's legal advisory functions currently carried out by legal experts and advisers at UNODC headquarters and in the field offices.¹¹ An expansion and strengthening of the network of field-based legal assistance specialists is proposed, in order for UNODC to step up its integrated legislative assistance, capacity-building in criminal justice and activities to strengthen international cooperation in criminal matters.

28. UNODC further proposes, in agreement and cooperation with relevant regional organizations, to define common regional approaches to legislative reform for the implementation of the Organized Crime Convention and the Protocols thereto. Such common approaches, once they have been agreed to at the regional level, can be translated into the adoption of national laws, which by their coherence facilitate international cooperation such as the lending of mutual legal assistance. Such an approach has been successfully applied in combating international drug trafficking in Western and Central Africa, in cooperation with the Economic Community of West African States and the Economic Community of Central African States.

29. Provision of legal advice and assistance will also, as required, address the need to cover emerging forms of crime in domestic legislation and ensure that such crimes qualify as serious crime under the Convention in order to trigger the application of its provisions on international cooperation. UNODC therefore proposes to intensify its legal research on and analysis of forms of serious crime not specifically covered by the Convention and its Protocols but where there are indications of involvement of organized criminal groups, such as cybercrime, illegal logging, trafficking in precious metals and other natural resources, trafficking in cultural property and identity-related crime.

3. Development of model legislation

30. The delivery of legislative assistance is greatly supported and enhanced by model laws or model provisions that take into account the diversity of legal systems and traditions and reflect the experience and expertise accumulated in the relevant area. In addition to the model laws on trafficking in persons, justice in matters involving child victims and witnesses of crime and witness protection that are at the stage of being drafted or finalized (see para. 18 above), UNODC proposes to develop the following: (a) model provisions and accompanying commentary for the implementation of the Convention, organized by modules; (b) a model law and accompanying commentary for the implementation of the Migrants Protocol; and (c) a model law and accompanying commentary for the implementation of the Firearms Protocol.¹²

¹¹ Legal advisers under the Treaty and Legislative Assistance Branch of UNODC are currently posted in field offices in Bangkok, Tashkent and Bogotá.

¹² Limited initial funding has been made available to develop model legislation to support implementation of the Migrants Protocol and the Firearms Protocol.

4. Training of criminal justice actors to implement domestic legislation

31. The need for training of investigators, judges, prosecutors and other key practitioners of the criminal justice system has been identified by many States responding to the questionnaires and checklist as one of their key technical assistance needs. These include Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Ecuador, El Salvador, Gabon, Guinea, Honduras, Indonesia, Madagascar, Mali, Myanmar, Namibia, Niger, Paraguay, Serbia and Thailand. UNODC proposes to pursue training on the implementation of the Convention and its Protocols and to develop good practices for use by practitioners.

32. Lack of specialized training and dedicated resources to investigate and prosecute organized criminal activity has been identified as major obstacles to successful action against organized crime. UNODC proposes to convene a meeting of experts to identify good practices in the establishment and functioning of specialized units to deal with organized crime, for use as a reference by States considering their establishment.

33. In cooperation with other international organizations,¹³ UNODC proposes the development of training materials in the area of computer-related crime, including child sexual exploitation on the Internet for which there are increasing indications of involvement of organized criminal groups. This will include: (a) developing training materials on investigation and prosecution of computer-related crime, aimed at developing countries in particular; and (b) providing training on the basis of such materials to law enforcement and judicial authorities in developing countries. The above activities will be carried out in cooperation with institutions that have experience and expertise in the development of cybercrime training materials and experts specialized in the delivery of cybercrime-related training.

5. Witness and victim protection

34. In the area of witness and victim protection, UNODC proposes to build professional competence and operational skills of judicial and law enforcement practitioners, in order to improve their ability to protect witnesses and victims while detecting, investigating, prosecuting and adjudicating offences under the Convention and its Protocols. Specific technical assistance activities in this regard would include: (a) creation and design of training curricula and resource materials adapted to each State's context and needs; (b) developing national and regional programmes in Asia and Africa to meet the increasing number of technical assistance requests from those regions and continuing to provide technical assistance to countries in Latin America; (c) facilitating closer cooperation between

¹³ UNODC has been active in the High-level Experts Group on Cybersecurity of the International Telecommunication Union, implementation of action line C5: building confidence and security in the use of information and communications technology, of the Plan of Action adopted at the World Summit on the Information Society, held in Geneva from 10 to 12 December 2003 (see A/C.2/59/3) and the United Nations Group on the Information Society. UNODC is also an observer at the Cybercrime Convention Committee of the parties to the Convention on Cybercrime (Council of Europe, *European Treaty Series*, No. 185) and is actively involved in other activities with the Council of Europe. UNODC is also a partner organization in the Working Group on Harmonisation on High Tech Crime Training in the European Union. Partnerships have also been developed with the International Criminal Police Organization (INTERPOL) and the European Police Office in the area of cybercrime.

law enforcement and civil society in the development of programmes to assist and support victims and witnesses of crime, especially of human trafficking; (d) facilitating intensive and continuous on-the-job training to support judges and prosecutors in day-to-day casework; (e) formalizing regional networks of witness protection offices through holding yearly meetings to promote cross-border cooperation and information-sharing; (f) facilitating study tours of witness protection officers who are in training to States with effective programmes; (g) establishing a permanent forum to discuss the challenges for witness protection from the increasing use of biometrics in personal documentation; and (h) promoting the development of international cooperation in the exchange of imprisoned witnesses when they cannot be sufficiently protected in the State where they are detained.

C. The way forward

35. With a view to mobilizing and integrating the multi-disciplinary expertise available within the Office, UNODC has established a series of inter-divisional task forces for Eastern Africa, South-East Asia and the Pacific, and Latin America and the Caribbean. The Office is developing an integrated strategic programme for each of these regions in order to address crime and drug challenges. Activities to strengthen criminal justice responses to organized crime for these regions will be integrated within the relevant strategic programmes.

36. It is proposed that Member States provide adequate resources to UNODC to enable the provision of legal advice and legislative assistance, identified by many parties and signatories as one of their most basic needs in the implementation of the Convention and the Protocols thereto. Resources should also be made available to ensure long-term sustained technical assistance in building the capacity of criminal justice systems to ensure respect for the rule of law, while countering trafficking and organized crime, especially in post-conflict countries. Support to the proposed integrated legal assistance programme, including placement of legal expertise in UNODC field offices, would enhance the provision of legal assistance.

IV. International cooperation and establishment or strengthening of central authorities for mutual legal assistance and extradition

37. With regard to international cooperation and the establishment or strengthening of central authorities for mutual legal assistance and extradition, the Working Group requested the Secretariat to continue its current activities aimed at promoting international legal cooperation and to submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas: (a) providing legal expertise and legislative assistance to States in the implementation of the international cooperation provisions of the Convention; (b) building the capacity of central and other competent authorities and enhancing working relationships with and among them, in particular through the organization of regional and interregional workshops; and (c) developing legislative and training tools and material in the area of international legal cooperation.

A. Current technical assistance activities on international cooperation and establishment or strengthening of central authorities for mutual legal assistance and extradition

38. As requested by the Working Group in October 2007, UNODC has continued its activities aimed at promoting international legal cooperation. It worked at strengthening central and other competent authorities in relation to international cooperation through a wide range of training and capacity-building activities. Supported by an advisory group of experts and pursuant to decision 3/2 of the Conference, UNODC has organized a series of regional workshops for central and other competent authorities, magistrates and judges responsible for liaison, and prosecutors and practitioners in charge of cases that require international cooperation, with a view to facilitating exchanges among counterparts and promoting awareness and knowledge of the mechanisms for international cooperation under the Convention. It has also worked on the development of tools, such as an online directory of competent authorities, a virtual network of authorities, a mutual legal assistance request writer tool and a catalogue of examples of cases where the Convention has been used as a basis for engaging in international cooperation in criminal matters. Detailed information on the work done by UNODC to promote the implementation of the provisions on international cooperation in the Convention is before the Conference in document CTOC/COP/2008/5.

B. Proposed technical assistance activities on international cooperation and establishment or strengthening of central authorities for mutual legal assistance and extradition

1. Expansion of the online directory

39. In terms of further developing tools and materials in the area of international cooperation, UNODC proposes to expand the online directory of central and other competent authorities to include authorities designated under article 13 (Cooperation) of the Firearms Protocol and authorities designated for purposes of international cooperation in criminal matters under the Convention against Corruption (for additional information, see CTOC/COP/2008/5, para. 12).

2. Good practices in international cooperation

40. UNODC proposes to review, update and further develop its good practices on extradition and mutual legal assistance, including for the purposes of confiscation.¹⁴ For that purpose, UNODC proposes the holding of two open-ended working groups: one on extradition, which would also consider needs for facilitation tools and the

¹⁴ See the reports of the Informal Expert Working Group on Effective Extradition Casework Practice (Vienna, 2004) and the report of the Informal Expert Working Group on Mutual Legal Assistance Casework Best Practice (Vienna, 2001) available on the UNODC website.

potential usefulness of an extradition request writer tool,¹⁵ and one on mutual legal assistance, including, in particular, assistance for the purposes of confiscation.

3. Support to States in improving collection of data

41. With a view to collecting data on the reliance of States on provisions of the Convention to engage in international legal cooperation, UNODC will provide, upon request, assistance and advice to States wishing to improve their collection of national data on requests for such cooperation. Data would include the volume and source or destination of requests received and sent, the outcome of requests, the types of offence, the time required for completion, any grounds of refusal and the legal basis used for requests, including use of the Convention as the legal basis. Establishing databases to maintain such information would enable parties to monitor the efficiency of their international cooperation mechanisms and identify and address shortcomings.

4. Addressing basic equipment and telecommunications needs

42. In the area of providing support for the establishment and strengthening of central authorities, UNODC proposes that needs for basic office equipment and telecommunications facilities (telephone and fax connections, a computer with Internet access and basic staffing and training needs) be identified and met through provision of technical assistance.¹⁶ Such needs should be taken into account in planning support for the criminal justice system in its entirety.

5. Follow-up to regional workshops for central authorities

43. In its decision 3/2, the Conference requested its secretariat to organize regional workshops for central authorities. The secretariat was able to hold five regional workshops in 2007 and 2008¹⁷ and has received funding for two more, which will be held in the Balkans and the Caribbean region. UNODC's initial plan to implement decision 3/2 envisaged an initial series of 10 workshops. Bearing in mind that workshops have not yet been held in some regions, UNODC proposes to organize one workshop in South Asia and two in Africa (for countries of Central and Eastern Africa and for Southern Africa), seeking the active participation of

¹⁵ The Conference, in its decision 3/2, welcomed the preliminary work by UNODC to develop a tool for writing extradition requests. Further development of the extradition request writer tool has been put on hold by UNODC owing to a lack of human and financial resources.

¹⁶ When requested to identify their technical assistance needs, the following States indicated needs for basic equipment and telecommunications facilities for their criminal justice sector in general or specifically for those involved in international cooperation: Benin, Chad, Gabon, Mali and Niger. The Central African Republic and Mali indicated a need for assistance for printing of national legislative texts to be used by criminal justice practitioners.

¹⁷ The following workshops have been held so far: for countries in Latin America and the Caribbean, Bogotá, 12-14 September 2007, in cooperation with the Organization of American States; for Central and East Asian countries, Kuala Lumpur, 14-16 November 2007, in coordination with the office of the Attorney General; for countries in the Middle East and North Africa, Cairo, 4-6 December 2007, in cooperation with the United Nations Development Programme, Programme on Governance in the Arab Region and in coordination with the office of the Attorney General; for States members of the Organization for Security and Cooperation in Europe (OSCE), Vienna, 7-9 April 2008, in cooperation with OSCE; and for francophone and Portuguese-speaking African countries, in Dakar, 10-12 June 2008.

subregional organizations in Africa and exploring the possibility of holding the workshops at their headquarters.

44. In Latin America and the Caribbean, the joint workshop organized by the Organization of American States (OAS) and UNODC led to a request for further collaboration between OAS and UNODC and the organization of further training activities. UNODC proposes to organize two subregional workshops for South and Central American countries, possibly in Brazil or in Guatemala. Follow-up requests for training at the national level have been made by Costa Rica, Suriname and Uruguay.

45. With a view to promoting the use of the mutual legal assistance request writer tool, as encouraged by decision 3/2, UNODC proposes to organize training activities on the tool in conjunction with the regional workshops. This approach will be tested during the Caribbean regional workshop, where a session will be added to the regular programme to provide training to authorities on use of the tool to draft requests and execution of requests based on the tool.

6. Advisory group of experts on international cooperation

46. The secretariat has received advice and support from an advisory group of experts in its organization of regional workshops on international cooperation. The group met on a voluntary basis five times in Vienna between June 2007 and May 2008.¹⁸ Members of the group also participated, at no cost to UNODC, in the various workshops as resource persons. The Secretariat proposes that resources be made available to enable experts and practitioners from countries that are beneficiaries of technical assistance in the area of international cooperation in criminal matters to participate in the group. A lack of geographical balance has been identified by the group as limiting its usefulness, but that issue has not been addressed so far because of a lack of resources to fund participation of experts.

7. Network of central authorities

47. In its decision 3/2, the Conference requested its secretariat to support the building up of a virtual network of central authorities. UNODC proposes to hold a meeting of experts to devise terms of reference, set out the functions and working methods of the proposed network and explore complementarity and links to existing regional networks. The meeting will also explore UNODC's role in facilitating international cooperation, for example by providing, if required, "help desk" services to assist States in solving specific cases. Information technology solutions to ensure confidentiality and security of communications within the network will also be explored.

48. UNODC further proposes the convening, before the fifth session of the Conference, of a meeting of all central authorities of States parties to the Convention, to be held in plenary as well as in working groups, in order to allow for regional and cross-regional networking among authorities.

¹⁸ Experts from the following States participated in the work of the advisory group: Argentina, Australia, Austria, Brazil, Canada, France, Germany, Italy, Japan, Netherlands, Norway, Poland, Portugal, Russian Federation, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America. An expert from OSCE also attended.

C. The way forward

49. Significant progress has been made in promoting the international cooperation provisions of the Convention. The regional workshops, in particular, have provided practitioners of international cooperation valuable opportunities to discuss common problems with counterparts, strengthen working relationships based on mutual understanding and trust and, in a number of instances, make progress on specific pending cases. The funding situation of those activities has so far been ad hoc and unpredictable, making proper planning of further activities a challenge. UNODC faces considerable demand for more training and technical assistance in this crucial area of the Convention.

50. UNODC proposes that appropriate funding be provided to carry out requested follow-up activities: national training workshops, workshops with a subregional focus, workshops for States linked by a significant flow of requests, such as origin, transit and destination States along trafficking routes, or workshops with a specific substantive focus, such as tracing, seizure and confiscation of assets.

V. Data collection

51. With regard to data collection, the Working Group requested the Secretariat to submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas: (a) building the capacity of law enforcement authorities to collect and analyse data on organized crime; and (b) building the capacity of States to manage knowledge on organized crime trends and threat assessments, bridging gaps in the coverage of existing data collection and analysis systems.

A. Current technical assistance on data collection

1. Strengthening national capacity to collect crime data

52. Crime and criminal justice statistics, especially data on recorded crime, arrests, prosecutions and convicted offenders, are fundamental in providing information on the nature of organized crime. Analysis of responses to the annual reports questionnaire and the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems reveals that, at present, information is scarce and often originates primarily from developed countries.

53. UNODC has strengthened its capacity to provide training and assistance in the area of crime statistics and surveys in order to support countries in development of national capacities to collect and analyse their own data, with a view to sharing them at the international level, in accordance with article 28 (Collection, exchange and analysis of information on the nature of organized crime) of the Convention.

54. The UNODC project to collect and analyse data on drugs, crime and victimization in Africa, funded by the United Nations Development Account, was started in 2007. The project is assisting African countries to generate better data and information, enhancing their capacity to analyse data and trends in drugs, crime and victimization and provide a regional platform for exchange of information and

experience. A workshop to be held in Addis Ababa in the last quarter of 2008 is expected to assist in raising awareness among policymakers of the importance of producing, collecting and sharing accurate information on a wide range of crime phenomena, in order to identify links and develop targeted prevention strategies.¹⁹

2. Training in international data collection

55. UNODC has provided training to requesting States on the reporting of crime and criminal justice statistics through the United Nations Survey on Crime Trends and Operations of Criminal Justice Systems. This has resulted in increased capacity of States to exchange information, based on common definitions, on a number of relevant issues. In Central Asia, a training curriculum on international data collection instruments that may prove useful in exploring the links between drug trafficking and organized crime was developed for use in countries in the region.²⁰ A survey of drug trafficking in the region is currently being conducted within the Paris Pact Initiative. Its results will be compiled in a report to be issued in the last quarter of 2008.

56. Crime definitions used for statistical purposes are consistent with the Convention and relevant Protocols thereto. Information refers to the number of recorded crimes and persons arrested, prosecuted and sentenced in the following categories: (a) participation in organized criminal groups; (b) human trafficking; and (c) smuggling of migrants. As regards human trafficking, a detailed checklist to assist in the identification of available criminal justice information at the country and regional level was developed within the framework of the United Nations Initiative to Fight Human Trafficking. The checklist has been compiled by UNODC in order to overcome information gaps and improve monitoring mechanisms on trafficking in persons at the country level.²¹

B. Proposed technical assistance activities on data collection

1. Strengthening national capacity to collect crime data

57. UNODC intends to continue providing assistance to requesting countries to build their capacity to collect, share and analyse knowledge on organized crime trends. This would include developing specific methodologies and training tools that will assist countries in identifying and addressing gaps, especially in the

¹⁹ See Revised African Union Plan of Action on Drug Control and Crime Prevention (2007-2012), adopted by the African Union Conference of Ministers for Drug Control and Crime Prevention, at its third session, Addis Ababa, 3-7 December 2007, priority area 2.6, recommended action (iv), which provides that the African Union Commission, in collaboration with the United Nations Office on Drugs and Crime and Member States, will gather information on the links between drug abuse, drug trafficking, corruption, organized crime, money-laundering, terrorism, and human and arms smuggling on the continent, with the view to developing strategies to address these in a holistic manner.

²⁰ Training was provided in Turkmenistan in April 2008 and is planned for Tajikistan later in the year.

²¹ See background paper before the Vienna Forum to fight Human Trafficking, "024 Workshop: Quantifying Human Trafficking, its Impact and the Responses to it", available at <http://www.ungift.org/docs/ungift/pdf/vf/backgroundpapers/BP024QuantifyingHumanTrafficking.pdf>.

geographical regions where such capacity is lacking or weak. For example, the forthcoming joint manual on victim surveys by UNODC and the Economic Commission for Europe is expected to contribute to the capacity of countries to use population-based surveys as a regular tool for measuring crime and assessing the vulnerability of target populations. In this respect, UNODC plans to promote the manual through specific assistance provided at the country and regional level, with the involvement of the competent national statistical offices.

2. Strengthening law enforcement capacity to analyse crime data

58. Further technical assistance could focus on assisting law enforcement authorities in strengthening their capacity to collect information for analytical purposes. Although law enforcement is a main source of information on organized crime, many of the data are not available for analysis, especially as regards details of crime incidents that would facilitate the identification of those related to organized crime. UNODC assistance may focus on sharing best practices and promoting peer-to-peer training and networks. Developing countries, in particular, could benefit from assistance in accessing and applying software for organized crime analysis, including packages aimed at use of global information systems for plotting and mapping cases and network analysis applications.

C. The way forward

59. UNODC is in the process of developing a set of statistical indicators to measure issues related to organized crime. Once developed, and upon request, the statistical indicators would be discussed with experts designated by Member States with a view to establishing appropriate systems of data collection, sharing and analysis.

60. Based on an overview of existing best practices and in consultation with national experts and regional organizations, UNODC plans to develop a standard methodology for conducting national assessments of threats from organized crime and would provide training to requesting States on the application of this methodology.

VI. Implementation of the Protocols to the Organized Crime Convention

61. With regard to the implementation of the Protocols to the Organized Crime Convention, the Working Group requested the Secretariat to submit to the Conference, at its fourth session, proposals for specific technical assistance activities in the following areas: (a) providing assistance for the promotion and ratification of and accession to all three Protocols to the Organized Crime Convention, with particular attention to the Migrants Protocol and the Firearms Protocol; and (b) providing legislative and capacity-building assistance for the implementation of the Protocols, with emphasis on the requirements for the full implementation of the provisions of the Migrants Protocol and the Firearms Protocol and taking into consideration other existing agreements in those areas.

A. Current technical assistance activities on implementation of the Protocols to the Organized Crime Convention

1. Implementation of the Trafficking in Persons Protocol and the Migrants Protocol

(a) Technical assistance for the implementation of the Trafficking in Persons Protocol

62. Building on the work described above to promote legal assistance, international cooperation and building of institutions for criminal justice, UNODC provides a number of specialized forms of technical assistance to national criminal justice systems, their institutions and actors.

63. With regard to the Trafficking in Persons Protocol and the Migrants Protocol, this includes, among other things, pre-ratification assistance to give effect to the Protocols, facilitating the development of national policy, national coordination and international cooperation mechanisms, undertaking prevention and awareness-raising activities and training of criminal justice actors. A detailed report on work done by UNODC to promote the implementation of these two protocols is before the Conference as document CTOC/COP/2008/8.

64. As at July 2008, UNODC is implementing 21 technical assistance projects around the world addressing all aspects of the Trafficking in Persons Protocol. While each project is tailored to the specific needs of a country or region, all reflect the underlying principle of the Protocol that a comprehensive State response balances effective criminal justice action with addressing the needs of trafficked persons as victims of crime. The focus of individual projects varies, but the core standardized activities include the development of legislation, national strategies, local capacity and expertise. In support of technical assistance efforts, UNODC has developed a number of tools, including a legislative checklist based on the *Legislative Guide for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*,²² a parliamentary handbook, standard research questionnaires, a toolkit of global best practices, training material for first respondents (those who come into first contact with victims) and specialized professionals, a case database, computer-based training modules and public service announcements.

(b) Technical assistance for the implementation of the Migrants Protocol

65. UNODC technical assistance to improve efforts to prevent smuggling of migrants has been limited to date because of a lack of funding. In the framework of projects undertaken in North and West Africa, UNODC is currently developing criminal justice training modules, in cooperation with the European Police Office, the International Criminal Police Organization (INTERPOL) and the Serious Organized Crime Agency of the United Kingdom, on preventing and combating smuggling of migrants based upon known good practices. Follow-up activities under these projects include research initiatives, legislative and capacity assessments, establishment of specialized law enforcement units, training programmes and the development of mechanisms to gather and share intelligence.

²² United Nations publication, Sales No. E.05.V.2.

66. Detailed information on work done by UNODC to promote the implementation of the Trafficking in Persons Protocol and Migrants Protocol is before the Conference in document CTOC/COP/2008/8.

2. Implementation of the Firearms Protocol

(a) Legislative and operational assistance

67. Since the Firearms Protocol entered into force in 2005, UNODC has been providing legislative and operational assistance to Member States for the ratification and implementation of the Protocol. In 2008, UNODC provided legal advice and initial support for review of legislation on firearms in Bolivia. Further assistance is envisaged for the ratification of the Protocol and the adoption of the necessary domestic legislation. Throughout 2007 and 2008, UNODC has continued implementation of the project on “Preventing and combating the illicit manufacturing and trafficking in firearms and ammunition to prevent crime and promote a culture of peace in Colombia”. The project has developed a train the trainers course, implemented on a regional level by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, INTERPOL and the Inter-American Drug Abuse Control Commission, in close cooperation with the National Firearms Committee of Colombia. Various training courses have been carried out at the regional level and at the national level for officials from various government institutions for control of the legal trade and prevention of illegal trafficking in firearms, ammunition and explosives. Under the project, UNODC has also assisted the Government of Colombia to destroy over 16,000 firearms that were seized from or handed over by insurgent groups. The project emphasizes the need for a thorough legislative review in compliance with the Firearms Protocol and other relevant international instruments, leading to ratification of the Protocol.

68. In June 2007, in partnership with the Regional Arms Control Verification and Implementation Assistance Centre in Zagreb, UNODC organized a regional training seminar on measures to prevent and combat trafficking in firearms. In April 2008, a follow-up seminar was organized in Zagreb to review the status of the implementation of the Firearms Protocol among South-Eastern European States.

(b) Development of technical guidelines

69. UNODC has embarked on the development of technical guidelines to help Member States establish and strengthen firearm record-keeping systems, marking, deactivation and disposal, together with firearm export, import and transit mechanisms and improving security measures and the regulation of brokers. The guidelines will provide practical advice to help States to create and strengthen the institutions responsible for controlling the legal trade in firearms and ammunition. Through better control of the legal trade, Member States will be able to prevent the diversion of firearms and ammunition into the illicit trade.

(c) Development of model legislation

70. Complementary to the guidelines, UNODC has initiated the development of model legislative provisions that address aspects of the implementation which require a legislative basis. Both the guidelines and the model legislation will take

into account other relevant global and regional instruments in order to facilitate a systematic and coherent approach to commitments and obligations of States on the issue of firearms.

71. A meeting of experts will be held in Vienna from 25 to 29 August 2008. It will bring together representatives of Member States and international governmental and non-governmental organizations to provide input on the draft technical guidelines and assist in the development of model legislation. The report of the meeting will be before the Conference as a conference room paper.

B. Proposed technical assistance activities on implementation of the Protocols to the Organized Crime Convention

1. Proposals concerning the Trafficking in Persons Protocol and the Migrants Protocol

(a) Application of tools in technical assistance programmes

72. Despite increased levels of adherence to both the Trafficking in Persons Protocol and the Migrants Protocol in recent years, there remains a need to translate these instruments into reality. Provision of specialized technical assistance could have a significant impact in this respect.

73. UNODC has developed a number of tools to combat human trafficking, including a model law against trafficking in persons and an advanced level training manual on protection of victims, investigation and prosecution of traffickers, which will be published in late 2009 (see CTOC/COP/2008/8, para. 6). The main objective of the training manual is to strengthen technical, judicial and law enforcement capacity in identifying and protecting victims of trafficking, investigating trafficking offences and prosecuting offenders in Member States that receive assistance from UNODC to combat human trafficking.

74. UNODC proposes to use these resources in technical assistance programmes and to develop similar initiatives to address the smuggling of migrants.

(b) Research methodologies and tools to assess needs

75. Further, the finalization of improved research methodologies and tools to assess needs in late 2008 will require pilot testing and implementation in programme development efforts.

(c) Addressing human trafficking in the context of peacekeeping operations

76. There is also an identified need for UNODC to build on its current training activities with the North Atlantic Treaty Organization and States that are part of the Partnership for Peace and to address more broadly trafficking in persons in the context of peacekeeping operations.

77. Similarly, there is a need for UNODC to integrate its expertise on corruption and money-laundering into its technical assistance activities to address crime under the Protocols. Technical publications concerning those links are planned for 2009.

2. Proposals concerning the Firearms Protocol

(a) Legislative and operational assistance

78. UNODC technical assistance activities for the implementation of the Firearms Protocol will, in cooperation with international and regional bodies that have a mandate to address the problem of firearms, address the issue with special emphasis on prevention and combating organized crime. Particular focus will be placed on the African, Latin American and Caribbean regions, as those have been identified as the most seriously affected by firearms trafficking and related violence.

79. Proposed technical assistance activities include: (a) raising awareness and increasing knowledge of firearms issues and usefulness of the Firearms Protocol; (b) conducting an assessment of the links between firearms trafficking and other forms of organized crime; (c) providing legislative assistance to develop an appropriate legal framework for the implementation of the Protocol; (d) assisting in the drafting of country and regional action plans to implement the Protocol; (e) providing capacity-building and training of law enforcement and the judiciary in investigating and prosecuting organized criminal groups and cooperating internationally to that effect; and (f) assisting in the establishment, strengthening and training of national competent authorities on firearms, such as points of contact and national commissions on firearms.

80. UNODC proposes to implement the above activities in the framework of a programme initially involving 8 to 10 countries from the African and the Latin American and Caribbean regions, in cooperation with relevant organizations, so as to promote the ratification and implementation of the Protocol and contribute to the implementation of complementary instruments such as the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons and other regional instruments.

(b) Development of tools

81. UNODC further proposes: (a) to finalize legal and operational tools, in particular model legislation and technical guidelines; (b) to upgrading existing operational manuals and develop computer-based training modules on investigating firearms trafficking; and (c) to develop tools such as automated tracing requests, standardized end-user certificates and import/export applications and licences, software applications for record-keeping and stockpile management and creation of a database on illicit firearm seizures.

C. The way forward

82. UNODC is moving towards developing a programmatic technical assistance approach to address trafficking in persons and smuggling of migrants that incorporates all the forms of technical assistance outlined above. The support of such an approach would greatly assist the delivery, implementation and sustainability of responses to those issues. With regard to trafficking in persons, UNODC has developed a wide range of technical expertise and materials, which, at

present, are underutilized in programme delivery. Concerning smuggling of migrants, there is a need to rapidly develop similar capabilities from the promising initial steps taken.

83. UNODC technical assistance for the implementation of the Firearms Protocol will be developed in close partnership with other agencies and organizations dealing with the issue of firearms. They will, in particular, be coordinated within the framework of the United Nations Coordinating Action on Small Arms Mechanism and seek the establishment of appropriate synergies with relevant international and regional instruments.

84. It is proposed that adequate resources be provided to UNODC to ensure long-term sustained technical assistance to facilitate full implementation of the Protocols and ensure a lasting criminal justice response to the challenges posed by trafficking in persons, smuggling of migrants and trafficking in firearms.