



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

Distr.: General
2 July 2012

Original: English

Sixth session

Vienna, 15-19 October 2012

Item 2 (c) of the provisional agenda*

**Review of the implementation of the United Nations
Convention against Transnational Organized Crime and
the Protocols thereto: Protocol against the Smuggling of
Migrants by Land, Sea and Air**

Activities of the United Nations Office on Drugs and Crime to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Report of the Secretariat

I. Introduction

1. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime, in its resolution 5/3, entitled “Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime”, requested the Secretariat to convene an expert group meeting to prepare an issue paper on the smuggling of migrants by sea, and called upon the Secretariat to develop tools to assist States parties seeking to strengthen the integrity and security of travel and identity documents and promote cooperation among States parties with the goal of stemming the misuse of travel or identity documents. The Conference requested the Secretariat to report to it, at its sixth session, on activities at the international and regional levels to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in coordination with relevant regional and international organizations.

* CTOC/COP/2012/1.



2. In that resolution, the Conference welcomed the outcome of the consultations of Government experts held during its fifth session and decided to establish an open-ended intergovernmental interim working group, in accordance with article 32, paragraph 3, of the United Nations Convention against Transnational Organized Crime and rule 2, paragraph 2, of the rules of procedure of the Conference, to be chaired by a member of the Bureau, to advise and assist the Conference in the implementation of its mandate with regard to the Smuggling of Migrants Protocol. Furthermore, the Conference decided that the open-ended intergovernmental interim working group should hold consultations during the sixth session of the Conference in order to exchange information on, inter alia, experiences and practices on the implementation of the Smuggling of Migrants Protocol.

3. The present report includes information on work carried out by the United Nations Office on Drugs and Crime (UNODC) to support States parties in the implementation of the Smuggling of Migrants Protocol.

II. Implementation of Conference resolution 5/3

A. Issue paper on the smuggling of migrants by sea

4. Pursuant to resolution 5/3, UNODC convened an expert group meeting from 13 to 15 September 2011 to prepare an issue paper on the smuggling of migrants by sea. The meeting was attended by experienced practitioners from various regions, including West Africa, East Asia and the Pacific, Western and Southern Europe and North and Central America, representing diverse legal systems and operational perspectives. The experts discussed the following issues:

(a) The situation with regard to the smuggling of migrants by sea: definitions, patterns, trends and extent;

(b) *Modi operandi*: persons involved in the smuggling process and their roles, the smuggling journey, fees and profits;

(c) Response and investigation: agencies involved and their roles in addressing migrant smuggling by sea, including detection, interception and rescue at sea, protection and assistance, investigation at sea and investigation of land-based smugglers;

(d) Coordination and cooperation: cross-sector and multi-agency cooperation, national criminal justice coordination and cooperation, international criminal justice coordination and cooperation, and international information sharing and exchange.

5. In addition, experts exchanged information on challenges and positive practices in encountering migrant smuggling at sea, the investigation and prosecution of the smuggling of migrants by sea and prevention and cooperation in addressing that crime.

6. The issue paper on the smuggling of migrants by sea,¹ which was produced by UNODC after the expert group meeting in 2011, was aimed at capturing expertise gained from a range of experiences of countries of origin, transit and destination for the purpose of increasing understanding of the issue and the challenges faced by States in addressing it. The overall goals of the issue paper were to provide a global perspective on the smuggling of migrants by sea, examine the framework and challenges in addressing it and recommend concrete measures on how to strengthen responses.

7. The issue paper contains suggestions for consideration and discussion, drawing from the open discussions held during the expert group meeting and consultations with relevant authorities and organizations.

8. Furthermore, the paper proposes a number of measures that States authorities may take with respect to detection, interception, rescue, disembarkation and assistance to smuggled migrants and protection of their rights, in line with the Smuggling of Migrants Protocol and other international legal instruments, such as the International Convention for the Safety of Life at Sea and the International Convention on Maritime Search and Rescue.

9. The paper also scrutinizes the necessary legislative framework for investigating and prosecuting migrant smuggling at sea, techniques to identify smugglers on board vessels and the need to investigate land-based smugglers.

10. The prevention section of the paper covers ways to address the root causes of smuggling of migrants at sea and to raise awareness of this crime. It also considers the interception of smuggling vessels before departure and the need for prevention measures, such as improved research, data collection and information sharing. The chapter on international cooperation examines how international, bilateral and regional cooperation, as well as inter-agency cooperation, can contribute to addressing the smuggling of migrants.

B. Tools to assist States parties seeking to strengthen the integrity and security of travel and identity documents and promote cooperation among States parties with the goal of stemming the misuse of travel or identity documents

11. Pursuant to Conference resolution 5/3, in order to assist States parties in strengthening the integrity and security of travel and identity documents and promote cooperation among States parties with the goal of stemming the misuse of travel or identity documents, UNODC published the modular training programme “Introduction to security document examination: training programme and trainers’ guide” (ST/NAR/44). Contributing to the elaboration of this tool were experts and partner organizations, including the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), the International Civil Aviation Organization, the International Criminal Investigative Training Assistance Programme, the

¹ See www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_Smuggling_of_Migrants_by_Sea.pdf.

International Organization for Migration (IOM) and the International Criminal Police Organization (INTERPOL).

12. This tool is aimed at assisting States in: (a) raising awareness of the use of fraudulent identity documents; (b) increasing knowledge on the legitimate manufacture of identity documents; (c) developing methodologies for reviewing and recognizing fraudulent identity documents; (d) developing methodologies for recognizing genuine documents that are used fraudulently; (e) identifying knowledge elements of basic forensic document examination that are related to document manufacture and how documents are falsified; and (f) incorporating the concepts presented into a flexible and modular training programme.

13. The scope of this training programme includes the development of the knowledge, skills and abilities of the following target audiences:

(a) Front-line officials, such as border control officers, whose responsibilities include the rapid and high-volume inspection of passports or other identity documents. Such documents can form the basis for an investigation and can be used as evidence if the documents are either fraudulent or genuine but used fraudulently;

(b) Forensic document examiners who develop their basic expertise in document examination in order to establish the authenticity of documents;

(c) Consular or passport officials who verify passports or secondary identity documents and evaluate their authenticity for the issuance of passports, visas and other travel documents;

(d) Domestic law enforcement or other officials whose duties include verifying the identities of persons using various forms of identity documents;

(e) Criminal justice practitioners and other stakeholders who deal with forensic laboratory or investigative reports or evidentiary document exhibits during investigations or legal proceedings.

14. The set of tools was tested in Panama, with a view to strengthening the capacity of personnel such as front-line officers, forensic document examiners and prosecutors in using security document examination to combat identity-related crimes. Two regional workshops organized by UNODC were attended by front-line officers, forensic document examiners and prosecutors from Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

15. In addition, three “train-the-trainer” workshops were organized in Costa Rica, the Dominican Republic and Peru for front-line officers, forensic document examiners and prosecutors from Belize, Bolivia (Plurinational State of), Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay. This workshop allowed for an exchange of knowledge and best practices on various issues, ranging from the detection of fraudulent documents at borders to trial proceedings, and promoted measures to enhance national and international cooperation.

16. In addition to providing advanced forensic document examination equipment, UNODC conducted training sessions for front-line officers on how to use the new equipment, as well as provided a basic introduction at selected South African airports to examining fraudulent documents. These training sessions increased the

general knowledge and understanding among border control officers of document examination and fraudulent documents. They also provided an opportunity for officers from different departments to train together and establish common criteria and strategies in identifying and dealing with counterfeit documents.

C. Working Group on the Smuggling of Migrants

17. Pursuant to resolution 5/3, the Working Group on the Smuggling of Migrants established by the Conference held its first meeting from 30 May to 1 June 2012. The recommendations adopted by the Working Group covered a wide range of issues, including criminalization, investigations and prosecutions, protection and assistance, prevention, international cooperation and proposed areas for future work. The report on that meeting is contained in document CTOC/COP/WG.7/2012/6.

III. UNODC activities to support the implementation of the Smuggling of Migrants Protocol

18. Since 2010, UNODC has been providing technical assistance to States at the global, regional and national levels in the following areas: prevention and awareness-raising; data collection and research; legislative assistance; strategic planning and policy development; criminal justice system responses; protection and support; and regional and international cooperation.

19. On 30 March 2012 and 31 May 2012, UNODC held two meetings for States parties in order to provide an overview of its technical assistance work aimed at assisting States in implementing the Smuggling of Migrants Protocol and to discuss challenges and priorities in the implementation of the Protocol.

A. Prevention and awareness-raising

20. In 2011, UNODC produced an awareness-raising and training film for criminal justice practitioners entitled *Ways and Means: Effective Action against Migrant Smugglers*, as well as a short video clip to raise awareness of the crime of smuggling of migrants. The film was dubbed into Arabic and French and was shown to criminal justice practitioners within the framework of capacity-building activities.

21. UNODC is also developing an awareness-raising campaign in Nigeria that includes the nomination of a Goodwill Ambassador and the development of key awareness-raising tools and specially designed textiles, publications (booklets and posters), a slogan and jingles for the campaign.

22. In cooperation with the Government of Mexico, UNODC in April 2012 organized the International Conference on the Smuggling of Migrants: Challenges and Progress in implementing the Protocol against the Smuggling of Migrants by Land, Sea and Air, with the aim of promoting the implementation of the Protocol in Mexico and Central America and positioning the topic on the regional political agenda. The media were involved prior to and during the conference, and an awareness-raising video was produced by UNODC for dissemination among key

partners and media to raise public awareness of the risks involved in the smuggling of migrants.

B. Data collection and research

23. In order to build well-informed and effective responses, States parties need to acquire evidence-based knowledge on the smuggling of migrants and related conduct at the national, regional and global levels. The capacities of many States parties to collect and analyse data related to this crime are generally limited. UNODC has developed a number of research and data collection activities to support States in enhancing their knowledge of this crime.

24. UNODC developed a set of questionnaires to be used by researchers when conducting field research relating to the smuggling of migrants. The questionnaires are aimed at, inter alia, collecting information on trends, *modi operandi* and the involvement of organized criminal groups and their profits. They are disaggregated by target group, which includes smuggled and potential migrants, law enforcement officers, lawyers, judges, prosecutors and non-governmental and intergovernmental agencies.

25. In 2011, UNODC published *The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union*,² on the basis of a desk review and field research conducted in Mali, the Niger, Nigeria and Senegal, which will be available in English, French and Portuguese. Other reports published by UNODC include a survey on the smuggling of migrants from Africa to Europe across the Mediterranean Sea, based on field research in Algeria, Egypt, Greece, Italy and Malta, as well as a report on the smuggling of migrants in Nigeria and a study on the involvement of organized crime in the smuggling of migrants and trafficking in persons in Southern Africa.

26. UNODC also published a set of research reports on the smuggling of migrants in Asia. One of those reports, which provides a thematic review of and annotated bibliography on the smuggling of migrants in Asia, offers a critical survey of existing research publications on the subject and maps out gaps in knowledge. The report is divided into two volumes: volume 1 contains the thematic review of literature that reviews in-depth the identified literature for each of the countries covered, by referring to key themes; and volume 2 contains an annotated bibliography. A catalogue of actors and activities working to combat the smuggling of migrants and human trafficking was also drafted to map out key information about States' responses to those crimes. Finally, a comparative analysis of financial transactions related to the smuggling of migrants from Asia was also developed. That report examines financial flows between the various actors involved in the smuggling of migrants in Asia and Europe.

27. UNODC directly supports States in developing their capacity to collect and analyse information relating to the smuggling of migrants. In support of the regional ministerial Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, UNODC developed a voluntary reporting mechanism that

² See www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Report_SOM_West_Africa_EU.pdf.

serves to gather information on the smuggling of migrants and related conduct for the purpose of strengthening strategic analysis to inform policy development at the interregional, regional and national levels. It is an Internet-based information technology solution which facilitates the collection, sharing and use for analytical purposes of data on the smuggling of migrants and related conduct, including irregular migration. This is complemented by a training programme on operational and strategic analysis of the smuggling of migrants, consisting of three phases relating to the following goals: (a) strengthening law enforcement capacity in carrying out operational analysis of cases involving the smuggling of migrants to effectively support investigations; (b) strengthening law enforcement capacity in conducting strategic analysis of a country's specific situation with regard to the smuggling of migrants, in order to identify overall trends, risk and threats and develop policies in response; and (c) familiarizing senior management with how operational and strategic analysis enables them to effectively assign and manage these activities.

C. Legislative assistance

28. In order to effectively implement the Smuggling of Migrants Protocol, States parties are required to criminalize specific conduct and adopt a series of mandatory legislation or measures, which are detailed in the *Model Law against the Smuggling of Migrants*, published in October 2010. The Model Law provides a comprehensive set of provisions to assist States in adopting adequate legislation to implement the Protocol, which are designed to be sufficiently flexible in meeting the specific needs of a diverse range of legal systems. The Model Law was elaborated in consultation with a wide range of experts from origin, transit and destination countries and is available online in five official languages of the United Nations.³

29. During the reporting period, UNODC continued to provide legal advice and assistance to legislative drafters, judges and prosecutors through the analysis of legislation gaps and regional legislative drafting workshops. In particular, gap analysis of legislation was conducted in West Africa (Burkina Faso, Cape Verde and Nigeria), North Africa (Algeria, Egypt and Morocco), Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), Mexico and Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama), East Africa (Ethiopia, Djibouti, Kenya and United Republic of Tanzania, with an overview of the legislation of Burundi, the Comoros, Eritrea, Madagascar, Mauritius, Seychelles, Somalia and Uganda) and in Colombia and Pakistan. Furthermore, Libya, Nigeria and Central America countries have been assisted in the review of their draft legislation, and validation workshops were held in Burkina Faso and Cape Verde. Two regional drafting workshops took place in Central Asia and East Africa.

³ See www.unodc.org/unodc/en/legal-tools/model-treaties-and-laws.html.

D. Strategic planning and policy development

30. In 2011, UNODC released the *International Framework for Action to Implement the Smuggling of Migrants Protocol*,⁴ a technical tool developed through expert consultation to support States parties' strategic planning and policy development. It addresses in a comprehensive manner the obligations of States parties with regard to the four objectives of the Protocol on prevention, prosecution and investigation, protection and assistance, and cooperation and coordination, and provides a roadmap for the identification of gaps in the implementation of the Protocol.

31. In order to better identify the needs of States parties and improve implementation of the Protocol, UNODC recently developed an assessment guide to the criminal justice response to the smuggling of migrants. This new tool examines such aspects as legal frameworks, national coordination mechanisms, human resources and staff management, criminal intelligence, investigation powers and procedures, border control, carrier liability and sea patrol, prosecution, the judiciary, international cooperation, security and travel documents, assistance and protection measures, prevention and awareness, and research and data collection. It provides an inventory of measures for assessing the legislative, investigative, prosecutorial, judicial and administrative responses to the smuggling of migrants and for integrating the information and experience gained from such assessments into successful national, regional and international strategies.

32. The voluntary reporting system, developed in support of the Bali Process, gathers information on the smuggling of migrants and related conduct for the purpose of strengthening strategic analysis to inform policy development at the interregional, regional and national levels. Research conducted in Nigeria and Southern Africa also examined existing national and regional policies and procedures to respond to the smuggling of migrants and trafficking in persons.

E. Criminal justice system response

33. In its resolution 5/3, the Conference recognized the work of the expert group meeting hosted by UNODC to elaborate an in-depth training manual on investigating and prosecuting the smuggling of migrants. This technical assistance tool was published in 2011⁵ to assist in building the capacity of States to respond effectively to the smuggling of migrants. The manual was elaborated to complement the "Basic training manual on investigating and prosecuting the smuggling of migrants"⁶ and to provide more insight into the investigation and prosecution of this crime. The "Basic training manual" was translated into Spanish and adapted to the local specificities and needs of Mexico and Central America. Both training manuals are also used by certain countries, such as Ghana, which have customized the

⁴ See www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/international-framework-for-action-to-implement-the-smuggling-of-migrants-protocol.html.

⁵ See www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/in-depth-training-manual-on-smuggling-of-migrants.html.

⁶ See www.unodc.org/documents/human-trafficking/Basic_Training_Manual_e-book_E_Introduction_10-54402_June_2010.pdf.

content to their needs and integrated the modules into their training programmes. In addition, another training tool, the first module of an e-learning programme on the smuggling of migrants, was developed to reach a larger number of criminal justice practitioners.

34. UNODC has carried out a range of capacity-building activities on the basis of the training tools that it has developed, including the training film *Ways and Means* and *Trainers' Notes*, to support States in raising the awareness and enhancing the capacity of criminal justice practitioners in North Africa, West Africa, Central Asia and South-East Asia. Experts from national agencies (e.g. the French border police and a specialized agency in Nigeria), regional agencies (e.g. the European Police Office (Europol) and Eurojust) and international organizations (e.g. INTERPOL) were actively involved in the delivery of the training.

35. A train-the-trainer programme was tested with immigration officers in Ghana from November 2011 to March 2012. The programme comprises awareness-raising and in-depth training phases and is complemented by a workshop on presentation skills. This has allowed the creation of a pool of trainers to deliver training to special coordination units and relevant staff on the detection and investigation of the smuggling of migrants, including through international cooperation.

36. A training needs assessment was conducted in South Africa in 2011, and a specialized training session on the links between the smuggling of migrants and money-laundering was elaborated and pilot tested in Cameroon in 2012. A regional training workshop in 2012 was held in Colombia for police investigators and border officials with training responsibilities related to the smuggling of migrants. National training workshops were successfully delivered to law enforcement officers, including immigration officers, prosecutors and judges in Egypt, Morocco and Pakistan, among other places.

F. Protection and support

37. Through the development of standard-setting tools and within the framework of systematic capacity-building, UNODC emphasizes one of the objectives of the Protocol: the protection of the rights of migrants. Specific activities relating to this aspect include assessments of the nexus between criminal justice actors and victim service providers with respect to the provision of protection and assistance trafficked persons and smuggled migrants, followed by national workshops to examine good practices in establishing a system for providing assistance and protection for trafficked persons and smuggled migrants in India and Kenya.

G. Regional and international cooperation

38. To prevent and combat the transnational crime of smuggling of migrants, a transnational response is required. UNODC has developed a range of tools to enhance cross-border cooperation and has trained criminal justice practitioners in how to make better use of informal and formal cooperation and enhance inter-agency coordination in the investigation and prosecution of the smuggling of migrants.

39. In order to foster interregional and international cooperation, UNODC organized two regional conferences: in Malta at the end of 2010 and in Mexico in 2011, in cooperation with the authorities of each of those States parties. The conferences were attended by representatives of States from the Mediterranean area and Central America, as well as experts from regional, intergovernmental and non-governmental organizations, to discuss trends and identify challenges in preventing and responding to the smuggling of migrants, protecting the rights of smuggled migrants and cooperating to achieve those goals. Participants exchanged information on positive practices, which were reflected in the resulting recommendations.

40. In addition, workshops dedicated to enhancing the capacity of criminal justice practitioners with regard to cross-border cooperation at the regional and international levels were held in, inter alia, Pakistan, the United Republic of Tanzania and North Africa. These workshops were aimed at: (a) providing the knowledge, information and tools necessary to facilitate international cooperation and mutual legal assistance; (b) identifying and addressing legal or practical issues that impede effective international cooperation in the country or region; (c) strengthening networks with neighbouring countries and other countries in the region; and (d) identifying and addressing issues relating specifically to international cooperation in response to trafficking in persons and the smuggling of migrants.

41. In order to enhance the effectiveness of its technical assistance, UNODC engages in partnerships with international and regional organizations. UNODC concluded cooperation agreements with IOM, the Office of the United Nations High Commissioner for Refugees, the World Tourism Organization and INTERPOL, and with regional agencies such as Eurojust, Europol, Frontex and the Organization for Cooperation and Security in Europe. UNODC is also actively involved in the Bali Process and partners with the International Centre for Migration Policy Development on the i-Map project to improve knowledge on the smuggling of migrants. Moreover, UNODC contributes its expertise to the work of other organizations and implements joint programmes with selected organizations.

42. UNODC is also a member of the Global Migration Group, which it is chairing during the second half of 2012. The Group comprises 16 member organizations and is aimed at strengthening inter-agency cooperation and ensuring greater consistency in policy formulation relating to migration and development. In its capacity as chair, UNODC plans to establish an action plan to promote the implementation of the Smuggling of Migrants Protocol and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, and engage with other member organizations in building an integrated and comprehensive response to the crimes covered by those Protocols.