



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

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**Status of responses by States parties and signatories on the
implementation of the United Nations Convention against
Transnational Organized Crime and the Protocols thereto**

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Background paper by the Secretariat

I. Introduction

1. The United Nations Convention against Transnational Organized Crime is one of the most widely ratified treaties dealing with organized crime matters, and is approaching universal adherence. It offers States parties a framework for international cooperation in combating transnational organized crime and requires action by States parties to harmonize their legislation with Convention requirements. Article 34, paragraph 1, of the Convention calls upon each State party to take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under the Convention.

2. In accordance with article 32, paragraph 1, of the Convention, the Conference of the Parties is established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention. Article 32, paragraph 5, calls upon each State party to provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement the Convention, as required by the Conference of the Parties.

* CTOC/COP/WG.2/2016/1.



3. The present paper has been prepared with a view to contributing to deliberations of the Working Group on item 2 of the provisional agenda, entitled “Status of responses by States parties and signatories on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”. The paper summarizes the reporting requirements contained in the Convention and the recent mandates given by the Conference of the Parties to that effect. It also describes the tools for information-gathering and dissemination and how those tools have been utilized by States. Finally, it provides recommendations on how to improve the gathering of information, as well as its dissemination, analysis and further use in technical assistance.

II. Reporting requirements contained in the Organized Crime Convention

4. As mentioned above, in accordance with article 32, paragraph 1, of the Convention, the Conference of the Parties is established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of this Convention. Article 32, paragraph 3 (d) and (e), calls upon the Conference to agree upon mechanisms for achieving these objectives, including the periodical review of the implementation of the Convention, as well as making recommendations to improve the Convention and its implementation. To this end, article 32, paragraph 4, requires the Conference to acquire the necessary knowledge of the measures taken by States parties in implementing the Convention and of the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties. Article 32, paragraph 5, requires each State party to provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement the Convention, as required by the Conference of the Parties.

5. It should be noted that article 32 does not specify the frequency of the reporting requirements and the articles to be reported on. What is clear from the interpretive notes for the official records (*travaux préparatoires*) of the negotiation of the Organized Crime Convention and the Protocols thereto is the need for some regularity in the provision of the information required. In addition, the term “administrative measures” is understood to be broad and to include information about the extent to which legislation, policies and other relevant measures have been implemented (A/55/383/Add.1, para. 58). From its first session in 2004 until its fourth session in 2008, States parties were requested to fulfil such reporting requirements with regularity, for examination by the Conference. Further information on past efforts in that regard is set out in a conference room paper on information-gathering under article 32, paragraph 5, of the Organized Crime Convention (CTOC/COP/WG.2/2014/CRP.1).

6. In its resolution 6/1, entitled “Ensuring effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference encouraged the United Nations Office on Drugs and Crime (UNODC) to promote and disseminate such tools and to continue facilitating the exchange of experiences and good practices among practitioners, including through the knowledge management portal known as Sharing Electronic Resources and

Laws on Crime (SHERLOC)¹ and an online digest newsletter. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference decided that the working groups shall continue to analyse the implementation of the Convention and the Protocols thereto, making the best use of the information gathered through the comprehensive self-assessment software (“omnibus survey software”) and other tools that have been developed and compiled by the Secretariat, in full respect of the principle of multilingualism. In response, the Secretariat has developed tools for information-gathering, which are discussed in the following sections.

III. Comprehensive self-assessment software (“omnibus survey software”)

7. The omnibus survey software, which the Secretariat began developing in 2007, is a comprehensive software for States to use in responding to reporting obligations emanating from the Organized Crime Convention and the United Nations Convention against Corruption. The decision to use one tool for both Conventions took into consideration the convergence of the information-gathering mandates emanating from both Conventions and the difficulties that States parties indicated that they had in responding to the many questionnaires. Consequently, cross-references were created in the omnibus survey software between the provisions of the two Conventions which are in essence identical, the difference being the scope of application.

8. Following a broad consultation process to validate the approach and methodology, the portion of the software relating to the Convention against Corruption was finalized and endorsed at the third session of the Conference of the States Parties to the Convention, held in Doha from 9 to 13 November 2009. Since then, the omnibus survey software has been in use in the context of the mechanism for the review of implementation of the Convention against Corruption. However, the questions pertaining to the Convention against Corruption contained in the software were recently redesigned in close consultation with States, and it was not possible to retain all the cross references in the omnibus survey software between the two Conventions. Therefore, if the cross references were to be recreated, a restructuring of the portion of the software relating to the Organized Crime Convention and the Protocols thereto would also be required for States to be able to import their responses from the self-assessment on one Convention to the other.

9. Since the seventh session of the Conference of the Parties, the Secretariat has not received any information through the omnibus survey software.

IV. Sharing Electronic Resources and Laws on Crime

10. To facilitate information-gathering and dissemination, UNODC developed SHERLOC. The portal consists of four components: a case law database, a database

¹ Available at www.sherloc.unodc.org.

of legislation, a bibliographic database and the competent national authorities directory.

11. SHERLOC covers the articles of the Organized Crime Convention and the Protocols thereto as well as 14 specific crime types. The database is also searchable by “cross-cutting issues”, which include international cooperation and crime prevention (see CTOC/COP/2016/13, paras. 14 and 15).

12. The case law database allows users to see how Member States are tackling organized crime cases in their courts, and it is searchable by country, Convention article, crime type and cross-cutting issue. The database of legislation is a repository of national provisions against crime. It is also searchable by country, Convention article, crime type and cross-cutting issue.

13. The directory of competent national authorities contains information presented in two separate parts. Part I contains information on central authorities designated under various treaty provisions related to mutual legal assistance. Part II contains information on other competent authorities and executing authorities designated to receive, respond to and process requests pertaining to extradition, the transfer of sentenced persons, the prevention of transnational organized crime, the smuggling of migrants, trafficking in firearms and trafficking in cultural property.

14. Finally, the bibliographic database is an annotated bibliography providing synopses of relevant publications on various forms of organized crime.

15. As at 30 June 2016, SHERLOC included more than 2,100 cases and more than 6,000 relevant legislative provisions against organized crime from more than 190 countries. With the exception of the directory of competent national authorities, the information in SHERLOC is accessible to the public.

16. The information in SHERLOC is obtained in a number of ways. First and foremost, the SHERLOC team receives legislation and case law directly from the permanent missions of Member States. Information is also received from various government ministries and criminal justice practitioners within Governments. Secondly, a group of volunteers conducts research and sends legislation and case law to the SHERLOC team within UNODC. Finally, the Office conducts research in the context of technical assistance activities. Information received by the SHERLOC team from volunteers or through the Office’s own research is subsequently verified with the relevant permanent missions.

17. Moreover, to ensure the quality and accuracy of the information, the Office regularly corresponds with permanent missions and issues notes verbales inviting States to verify and validate the information found on SHERLOC. Since the seventh session of the Conference of the Parties, four notes verbales have been issued.²

18. In addition to the notes verbales, a SHERLOC resource centre is set up when intergovernmental meetings are being held, where Member States may validate and update the information contained in SHERLOC. SHERLOC resource centres were set up in the margins of the following meetings:

² CU 2015/202/DTA/OCB/CSS, CU 2015/250/DTA/OCB/CSS, CU 2015/96/DTA/OCB/CSS and CU 2016/99/DTA/OCB/CSS.

- (a) Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (Doha, 12 to 19 April 2015);
- (b) Twenty-fourth session of the Commission on Crime Prevention and Criminal Justice (Vienna, 18 to 22 May 2015);
- (c) Third meeting of the Working Group on Firearms (Vienna, 9 June 2015);
- (d) First open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto (Vienna, 28 to 30 September 2015);
- (e) Sixth meeting of the Working Group on International Cooperation (Vienna, 27 and 28 October 2015);
- (f) Sixth meeting of the Working Group on Trafficking in Persons (Vienna, 16 to 18 November 2015);
- (g) Third meeting of the Working Group on the Smuggling of Migrants (Vienna, 18 to 20 November 2015);
- (h) Fourth meeting of the Working Group on Firearms (Vienna, 18 and 19 May 2016);
- (i) Twenty-fifth session of the Commission on Crime Prevention and Criminal Justice (Vienna, 23 to 27 May 2016);
- (j) Second open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto (Vienna, 6 and 7 June 2016).

V. Relevant legislation and case law received from States

19. Since the seventh session of the Conference, the Secretariat has received information for SHERLOC from the following 77 States (as at 30 June 2016): Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Dominican Republic, Fiji, Finland, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Indonesia, Israel, Italy, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Malta, Mauritius, Mexico, Mongolia, Montenegro, Myanmar, Nigeria, Norway, Oman, Panama, Paraguay, Philippines, Peru, Poland, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, South Africa, Spain, Sudan, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Turkey, Turkmenistan, Venezuela (Bolivarian Republic of), Viet Nam, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Yemen and State of Palestine.

VI. Improvements to the knowledge management portal

20. Global access and multilingualism are important goals for SHERLOC and, to that end, SHERLOC has been translated for use in all of the official languages of the United Nations. SHERLOC is also adaptable to all devices, enabling users to access it through mobile technologies.

21. The Office has also continued to redevelop and migrate the directory of competent national authorities under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and the Organized Crime Convention into SHERLOC. Pursuant to the recommendations of the Working Group on International Cooperation at its sixth meeting (see CTOC/COP/WG.3/2015/4), the 2016 issue of the directory presents the information in two separate parts, as indicated above. The current version of the directory also enables the inclusion of channels and information for informal cooperation in criminal matters and information on relevant legislation, templates and guidelines, information on the legal bases for extradition and mutual legal assistance and lists of applicable bilateral or multilateral agreements or arrangements.

22. In order to assist Member States seeking to ratify, accede to or implement the Organized Crime Convention, the *Legislative Guide for the Implementation of the United Nations Convention against Transnational Organized Crime* was updated pursuant to resolution 7/4, entitled “Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime”, and has been published electronically in SHERLOC.

23. The Office has expanded SHERLOC to include a bibliographic database, which is an annotated bibliography providing a synopsis of key articles that are searchable by country, crime type and cross-cutting issue. While previously the bibliographic database contained information on migrant smuggling only, it has now grown to cover all 14 crime types dealt with by other SHERLOC databases, namely: participation in an organized criminal group, obstruction of justice, money-laundering, corruption, trafficking in persons, smuggling of migrants, trafficking in firearms, cybercrime, fraudulent medicine, drug trafficking offences, counterfeiting, piracy, trafficking in cultural property, and wildlife and forest crime.

VII. Future plans for the knowledge management portal

24. SHERLOC aims to be a “one stop shop” for legal and practical resources to better prevent and combat the various forms and manifestations of crime. To this end, the development of a new database on, inter alia, national strategies, policies and agreements is under way. To provide an additional service to users, legislation implementing the provisions of the international drug control treaties will also be integrated into the case law database and the database of legislation. Moreover, in order to remain innovative in the field of knowledge management, SHERLOC aims to present the information visually. In this regard, SHERLOC has recently added a map function, which provides an additional means of viewing the data contained in the portal.

25. Given the growing volume of legislation and case law, having the quality and accuracy of the information assured by a group of experts would be desirable. In

fact, the Conference, in its resolution 7/1, called upon each State party to designate a focal point for the purpose of communicating with the Secretariat in compliance with article 32 of the Convention and to provide the Secretariat with the contact details of that focal point. However, as at 30 June 2016, the Secretariat had not received any nominations. In addition to ensuring the quality and accuracy of the information, such focal points could contribute to the analysis of key legal issues, lessons learned and difficulties in the implementation of the Organized Crime Convention and the Protocols thereto.

26. Indeed, the wealth of information contained in SHERLOC provides opportunities for further analysis, which could be carried out in consultation with the above-mentioned focal points. It could be of a progressive nature, analysing the implementation of the Convention and Protocol articles, following the multi-year workplans, as set out by the respective working groups. It could be based on both legislation and case law. Furthermore, some of the cases contained in the database of case law of SHERLOC could be turned into case studies and used in technical assistance delivery, by national training institutes and intergovernmental organizations alike.

VIII. Needs assessment tools

27. The Organized Crime Convention requires action by States parties to harmonize their legislation with the Convention requirements. Article 34, paragraph 1, of the Convention calls upon each State party to take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

28. The purpose of the publication entitled *Implementation of the United Nations Convention against Transnational Organized Crime: Needs Assessment Tools* is to provide guidance in assessing the measures that could be taken by States parties to ensure that the full potential of the Organized Crime Convention can be realized. The tools are to be used in the delivery of technical assistance, in particular in assessing the needs of States for technical assistance, with a focus on implementing legislation. At the domestic level, the tools can also enable experts, in particular policymakers and legislators, to assess the implementation of the Convention, which could include self-assessment. The tools consist of indicators and questions designed to identify gaps in existing legislation and its implementation, facilitate the formulation and development of technical assistance projects that adequately respond to the gaps and needs identified, and facilitate the development of performance indicators for evaluating progress in implementation.

IX. Future options

29. Owing to the lack of information regarding the implementation of the Organized Crime Convention and the Protocols thereto, the Working Group may wish to recommend that the Conference issue a systematic information-gathering and analysis mandate. In this regard, the Conference could remind States parties of their reporting requirements under article 32 of the Convention and request

information through the existing tools on all or selected articles of the Convention and Protocols, possibly following the multi-year workplans as set out by the Working Groups to the Conference. For information-gathering, one option would be to utilize the omnibus survey software. However, as the software has undergone considerable amendments under the review mechanism on the Convention against Corruption, the portion of the software relating to the Organized Crime Convention would have to be restructured.

30. The second option for information-gathering, dissemination and analysis is the SHERLOC, which is widely used by States. A new, simplified web-based information-gathering tool could be developed as a further component of SHERLOC in order to gather comprehensive information on the implementation of the Organized Crime Convention and the Protocols thereto. Such an information-gathering tool could follow the structure of SHERLOC, with reference to the provisions of the Convention. States parties could be given accounts with password protection for security or, if required, a paper-based questionnaire in case of difficulties with Internet connectivity. In that way, States parties could easily and quickly input, update or verify national information on legislation and jurisprudence, appoint focal points for ease of communication with the Secretariat and provide analysis on key legal issues in their legislation and case law.

31. Another advantage of using SHERLOC in this manner would be that States parties could easily access legislation and jurisprudence from other States parties. A function to request technical assistance could be added to the portal. Through the web-based application, States parties could more easily coordinate inputs across government agencies in order to ensure the timely completion of submissions. Once gathered, the information could be used as a first step to assess technical assistance needs in States requesting such assistance, or in desk reviews, development of technical assistance tools or other delivery of technical assistance, in particular legislative assistance. The information gathered could be used to analyse key legal issues, trends and patterns, or as part of a larger monitoring or implementation exercise, subject to a mandate from the Conference.

X. Conclusions and possible recommendations

32. Acquiring the necessary knowledge through information-gathering is at the core of the mandate of the Conference. Thus, the Working Group may wish to recommend that the Conference remind States parties of their reporting requirements under article 32 of the Convention and request information on implementation of the Organized Crime Convention and the Protocols thereto, utilizing existing tools such as SHERLOC.

33. In this regard, the Working Group may wish to recommend that the Conference issue a systematic information-gathering, dissemination and analysis mandate. The analysis could be carried out progressively, for example, per article of the Convention, and possibly following the multi-year workplans as set out by the Working Groups to the Conference.

34. The Working Group may also wish to recommend that the Conference reaffirm its request for each State party to designate a focal point for the purpose of

communicating with the Secretariat in compliance with article 32 of the Convention and to provide the Secretariat with the contact details of the focal point.

35. Finally, the Working Group may further wish to recommend that the Conference request the Office to continue developing tools and training material on the implementation of the Organized Crime Convention and the Protocols thereto, on the basis of the gathered information, including case law, for purposes of technical assistance.

36. Systematic information-gathering, dissemination and analysis would enable the Conference to fulfil its mandate to improve the capacity of States parties to combat transnational organized crime and to promote the implementation of the Convention. Furthermore, it would enable them to exchange information on successful practices for combating transnational organized crime. Finally, it would allow the Office, in cooperation with other stakeholders, to plan its work and effectively provide systematic technical assistance.
