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International cooperation in combating transnational crime: United Nations Convention against Transnational Organized Crime and the Protocols thereto

United Nations Convention against Transnational Organized Crime and the Protocols thereto

Report of the Secretary-General**

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* E/CN.15/2005/1.

** The submission of the present report was delayed because of the need to take into account the latest developments with regard to the preparations for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice.



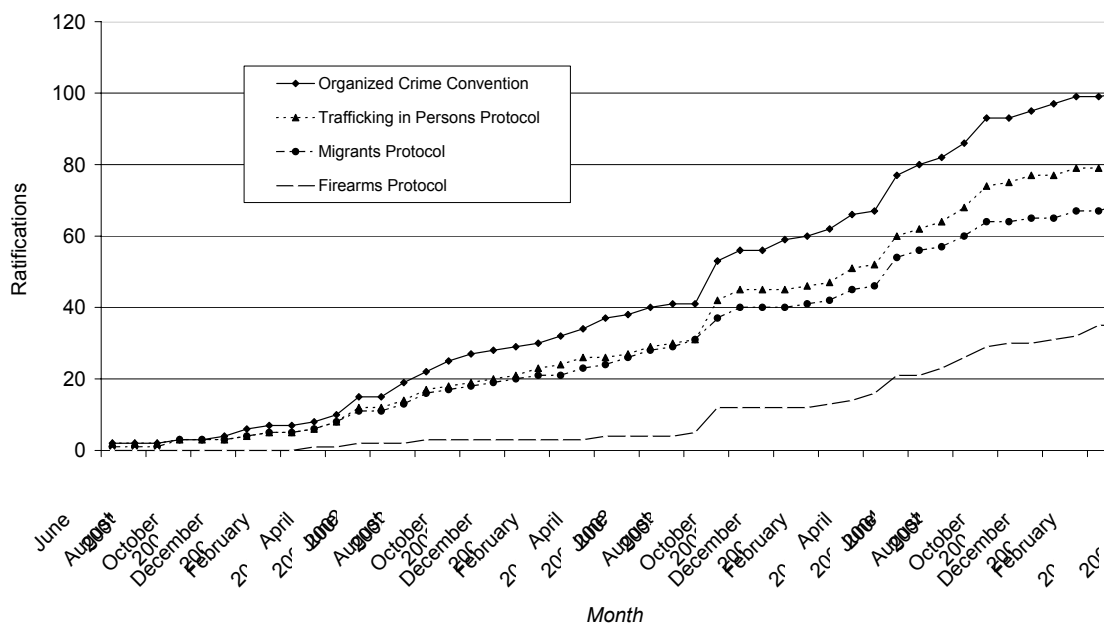
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I. Introduction

1. The General Assembly adopted the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air, supplementing the Convention, by its resolution 55/25 of 15 November 2000. By its resolution 55/255 of 31 May 2001, the Assembly adopted the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the Convention.

2. The Organized Crime Convention entered into force on 29 September 2003. With the impetus created by the treaty event organized in New York in September 2003, the Trafficking in Persons Protocol and the Migrants Protocol also entered into force on 25 December 2003 and 28 January 2004, respectively. During 2004, a total of 26 States ratified the Convention, 31 States the Trafficking in Persons Protocol, 24 States the Migrants Protocol and 19 States the Firearms Protocol. At the time of writing, there were 100 parties to the Convention, 80 parties to the Trafficking in Persons Protocol, 69 parties to the Migrants Protocol and 35 parties to the Firearms Protocol (see figure). An updated list of ratifications is provided in the annex to the present report.

Status of ratifications of the United Nations Convention against Transnational Organized Crime and the Protocols thereto as at 8 March 2005



3. Pursuant to article 32 of the Convention, a Conference of the Parties to the Convention was established to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention and its Protocols. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime held its first session in Vienna from 28 June to 8 July 2004, with 57 States parties, 42 signatories and 4 non-signatory States participating.

4. In his report to the General Assembly at its fifty-ninth session on promoting the ratification of the Convention and the Protocols thereto (A/59/204), the Secretary-General emphasized that the first session of the Conference of the Parties had demonstrated the significant potential of that body to ensure the implementation of the Convention and its Protocols. Recognizing that international cooperation was as crucial as ever in the fight against organized crime, he underlined that the success of the Conference of the Parties would depend on the continued support of States and their active involvement in its work, as well as on States' continued commitment to invest in further strengthening existing mechanisms of international cooperation by providing technical assistance to developing countries and countries with economies in transition. He also emphasized the need for further support to the work of the secretariat of the Conference.

5. In its resolution 59/157 of 20 December 2004, entitled "International cooperation in the fight against transnational organized crime: assistance to States in capacity-building with a view to facilitating the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto", the General Assembly welcomed the entry into force of the Organized Crime Convention, the Trafficking in Persons Protocol and the Migrants Protocol; and also welcomed the financial support provided by several donors to promote the entry into force and implementation of the Convention and the Protocols thereto, and encouraged Member States to make sufficient voluntary contributions to the United Nations Crime Prevention and Criminal Justice Fund, as well as contributions in direct support of activities and projects of the United Nations Office on Drugs and Crime (UNODC), including through contributions to the institutes of the United Nations Crime Prevention and Criminal Justice Programme network, for the provision of technical assistance to developing countries and countries with economies in transition for the implementation of those international legal instruments.

6. In its resolution 59/159 of 20 December 2004, entitled "Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity", the General Assembly reaffirmed the role of UNODC in providing to Member States, upon request and as a matter of high priority, technical cooperation, advisory services and other forms of assistance in the field of crime prevention and criminal justice, including in the areas of prevention and control of transnational organized crime, corruption and terrorism as well as in the area of reconstruction of national criminal justice systems, and stressed the need to enhance its operational activities to assist, in particular, least developed countries, developing countries, countries with economies in transition and countries emerging from conflict; urged all States and regional economic organizations that had not yet done so to ratify or accede to the Organized Crime Convention and its Protocols; emphasized the importance of the expeditious entry

into force of the Firearms Protocol; welcomed the voluntary contributions already made, and encouraged States to make adequate and regular voluntary contributions for the implementation of the Convention and the Protocols thereto, through the United Nations funding mechanism specifically designed for that purpose in the Convention or in direct support of implementation activities and initiatives.

7. During the discussions at its thirteenth session, the Commission on Crime Prevention and Criminal Justice welcomed the entry into force of the Organized Crime Convention and its first two Protocols as a major achievement in the fight against transnational organized crime and called for the prompt entry into force of the Firearms Protocol and again called upon Member States that had not done so to ratify or accede to the Convention and the Protocols. It was stressed that the ratification of those instruments, in particular the Firearms Protocol, should remain the highest priority of the Secretariat. Given the significance of effective implementation of the Convention and the two Protocols that were already in force, the role of the Conference of the Parties to the Convention in promoting and reviewing implementation was underscored, including particular efforts to be made to ensure the participation of least developed countries in the deliberations of the Conference.

8. The present report is submitted to the Commission on Crime Prevention and Criminal Justice at its fourteenth session in order to inform it of developments regarding the activities and future work of UNODC in this area.

II. Promotion of ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

A. General framework

1. Goal

9. The Organized Crime Convention and its Protocols are the first instruments of global application in their field. The entry into force of the Convention, the Trafficking in Persons Protocol and the Migrants Protocol enables States parties to employ those instruments as a basis for international cooperation in fighting transnational organized crime more effectively. Since the adoption of the Organized Crime Convention and its Protocols by the General Assembly, promoting ratification of those instruments and providing assistance to States seeking to ratify and implement them has been a top priority of UNODC. Immediately following the conclusion of the High-level Political Signing Conference for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Palermo, Italy, from 12 to 15 December 2000, the Office began developing and putting in place a strategy and a series of activities to promote the ratification of the Convention and the Protocols thereto. The immediate goal of UNODC was to support the expeditious entry into force of the instruments. Since the entry into force of the Convention and two of its Protocols, the emphasis of UNODC activities has shifted to focus on promoting the universal ratification of and full compliance with the instruments, as well as the prompt entry into force of the Firearms Protocol

before the second session of the Conference of the Parties, to be held in Vienna in October 2005.

2. Strategy: political and substantive components

10. In developing its strategy, UNODC Office devotes equal attention to the political and substantive components of the efforts that Governments will need to undertake in order to ratify and implement the Convention and the Protocols. As regards the political component of that endeavour, efforts are geared towards working with Governments to encourage them to undertake the requisite legislative review and action and to proceed with the submission of the pertinent legislative proposals to the national parliaments as a matter of priority, while ensuring that UNODC activities do not purport to influence, or in any way interfere with, the independent role and functions of national parliaments. In developing its strategy, and in particular in defining performance indicators for its activities, the Office takes into account the difficulty of estimating the time required for the completion of the last stage of the ratification process.

11. The substantive component of the efforts is twofold: legislative assistance and capacity-building. The legislative assistance activities focus on helping countries to identify and meet their needs in new legislation or to effect amendments to existing legislation that are designed to bring them into compliance with the Convention and the Protocols, as appropriate. More specifically, the purpose of legislative assistance is to assist States in bringing their systems into compliance with the mandatory provisions of the instruments.

12. With a view to helping States build capacity, UNODC has also assisted Member States in establishing or strengthening law enforcement mechanisms and promoting international cooperation. Training of law enforcement officials, investigators, prosecutors and judges has been a high priority. The Office has provided specialized training in modern investigative techniques, such as covert investigations and gathering of off-site evidence, and in the use of advanced intelligence software. It has also collected and promoted good policing practices, facilitating cross-border law enforcement cooperation.

3. Resources

13. The relevant activities have been supported through voluntary contributions to a special account established pursuant to article 30 of the Organized Crime Convention and General Assembly resolution 55/25 and operated under the United Nations Crime Prevention and Criminal Justice Fund. Since the beginning of the negotiation of the Convention and its Protocols by the ad hoc committee established for that purpose, financial contributions have been made by Austria, Canada, France, Greece, Italy, Japan, Monaco, Norway, Poland, the United Kingdom of Great Britain and Northern Ireland and the United States of America; the Asia Crime Prevention Foundation has also made financial contributions.

14. In order to use the limited financial and human resources as efficiently as possible, a number of assistance activities provided in 2004 dealt with the ratification and legislative incorporation of both the Organized Crime Convention and its Protocols and treaties on drugs, corruption and terrorism.

15. A working paper containing detailed information on technical assistance that has been provided by the Secretariat, including assistance funded through the special account established pursuant to the Convention and resolution 55/25, will be submitted to the Conference of the Parties at its second session, in accordance with decision 1/4 of the Conference. With regard to assisting least developed countries in participating in the sessions of the Conference, a separate report of the Secretary-General will be submitted to the Commission in accordance with General Assembly resolution 59/152 of 20 December 2004 (E/CN.15/2005/17).

B. Specific activities

16. In line with the general guidelines described above, the various types of activity described below have been undertaken by UNODC during the period under review.

1. Technical cooperation activities at the regional and subregional levels

17. UNODC continued to organize or participate in regional and subregional meetings, which have provided important opportunities to reflect on regional perspectives related to ratification and implementation issues, serving as forums for States to review progress in the ratification process and to exchange views and experience. Recommendations or declarations resulting from the meetings have urged States that have not yet done so to undertake all necessary efforts to ensure ratification of the Convention and its Protocols. More specifically the following meetings have been held:

(a) A regional ministerial conference of French-speaking countries of Africa for the ratification and implementation of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) was held in Port-Louis from 25 to 27 October 2004. The Conference was organized jointly by UNODC, the Intergovernmental Agency of la Francophonie (AIF) and the Government of Mauritius as a follow-up to the Cairo Declaration (A/C.3/58/4, annex), in which the ministers of justice attending the Regional Ministerial Conference of French-speaking Countries of Africa held in Cairo from 2 to 4 September 2003 committed themselves to taking the necessary steps towards the ratification and implementation of all of the above-mentioned instruments. The conference was attended by ministers and other high-level officials from 24 French-speaking countries of Africa (Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Mauritius, Morocco, Niger, Republic of the Congo, Rwanda, Sao Tome and Principe, Senegal, Togo and Tunisia), as well as representatives from seven organizations (African Union, AIF, Indian Ocean Commission, League of Arab States, Organization of the Islamic Conference, African Institute for the Prevention of Crime and the Treatment of Offenders and UNODC). Participants exchanged views and experience and reported on the action their countries had already undertaken in order to bring their legal systems into line with the provisions of the instruments and on their plans for legislative reform. The Conference adopted the Declaration of Port-Louis for action and effective follow-up, recommending, inter

alia, the ratification and implementation of the Organized Crime Convention and its Protocols;

(b) From 2 to 5 November 2004, a study tour for Portuguese-speaking countries on the ratification and implementation of the conventions and protocols relating to transnational organized crime, corruption and terrorism was organized jointly by UNODC and the Bureau for International, European and Cooperation Matters (GRIEC) of the Ministry of Justice of Portugal. Some 25 participants from seven States and territories, namely, Angola, Brazil, Cape Verde, Guinea-Bissau, Macao Special Administrative Region of China, Mozambique and Sao Tome and Principe, took part in the study tour;

(c) A regional training workshop on drugs and organized crime for the member States of the Organization of the Islamic Conference of the Arab region was held in Manama from 25 November to 1 December 2004. The workshop was organized by UNODC in partnership with the Naif Arab University for Security Sciences, with logistical support from the Ministry of the Interior of Bahrain and with participants from eight States (Bahrain, Jordan, Lebanon, Oman, Saudi Arabia, Somalia, Sudan and Yemen). The workshop provided justice officials and law enforcement officers of the Arab States that are members of the Organization of the Islamic Conference with international and regional perspectives on combating drug trafficking, transnational organized crime, money-laundering, corruption and terrorism, and assisted the participating countries in strengthening their national institutional capacity to handle judicial cases related to drugs and organized crime;

(d) A regional expert workshop on the ratification and implementation of the universal instruments against terrorism, transnational organized crime and corruption, as well as on the drafting of reports to the Counter-Terrorism Committee of the Security Council, was held in Praia from 8 to 10 December 2004. The workshop was organized jointly by UNODC and the Government of Cape Verde and was attended by 45 participants from 19 African countries (Angola, Benin, Cape Verde, Democratic Republic of the Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Mauritania, Mozambique, Nigeria, Republic of the Congo, Sao Tome and Principe, Senegal, Sierra Leone and Togo), as well as a representative of the Organization for the Prohibition of Chemical Weapons. The workshop adopted an action plan urging participating States to become parties to the Convention and its Protocols.

18. Staff of UNODC made presentations to promote ratification of the Convention and its Protocols at meetings organized by or in cooperation with other entities. The Director of the Division for Treaty Affairs participated in the 17th International Congress of Penal Law, held in Beijing from 12 to 19 September 2004, with a view to strengthening the cooperation between the International Association of Penal Law and UNODC in criminal matters. He also made a presentation entitled "Organized crime, corruption and terrorism: threats to peace, security and development; the role of the United Nations" at the round table on development, underdevelopment and security organized by the Military Centre for Strategic Studies in Rome on 25 October 2004. On 25 and 26 October 2004, a staff member participated in the strategic meeting on the implementation of the European arrest warrant, organized by Eurojust. Substantive input concerning the ratification and implementation of the Firearms Protocol was provided at a workshop on European action on small arms,

light weapons and explosive remnants of war, organized by the United Nations Institute for Disarmament Research in Geneva on 8 December 2004.

19. In total, UNODC has organized or participated in 21 interregional, regional and subregional meetings involving 139 States. The Office also availed itself of the opportunity created by the holding in March and April 2004 of four regional preparatory meetings for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, for Africa (see A/CONF.203/RPM.3/1 and Corr.1), West Asia (see A/CONF.203/RPM.4/1), Asia and the Pacific (see A/CONF.203/RPM.1/1) and Latin America and the Caribbean (see A/CONF.203/RPM.2/1), respectively, to conduct a one-day seminar on the Organized Crime Convention and its Protocols.

2. Individual assistance

20. The seminars and other related activities have made apparent some general needs of States. Assistance appears to be needed with the formulation of the four offences established by the Convention and, in particular, the offence of participation in an organized criminal group; extradition and mutual legal assistance; and the provisions governing the confiscation, seizure and disposal of proceeds of crime or other property. It has also been observed that legislative measures needed to be taken first to permit the subsequent training of officials in both the international instruments and the domestic legislation that has been created or amended to conform with them.

21. Based on these observations, the Office has assisted individual States in taking specific steps towards ratification of the Convention and its Protocols by: (a) in-depth analysis of existing legislation and relevant institutions; (b) provision of assistance to legislators and national parliaments in updating and/or adoption of legislation; and (c) assistance to Governments in the establishment of and/or reinforcement of international cooperation mechanisms.

22. During 2004, the Office provided technical assistance to a number of States, at their request, although responses were limited in some cases by the availability of personnel or resources. Legislative assistance was provided jointly by the Terrorism Prevention Branch and the Treaty and Legal Affairs Branch to the following countries: in 2004, to Guinea (2-7 May), Brazil (31 May-4 June), Republic of the Congo (6-9 July), Togo (2 and 3 August), Morocco (4-6 October) and Gambia (14-16 December); in 2005, to Burkina Faso (5-7 January), Sierra Leone (29 January-1 February) and Ethiopia (1-3 February). From 22 to 24 November 2004, a legislative drafting workshop for Afghan experts was hosted by the Office to assist in drafting legislation against terrorism and transnational organized crime.

23. Along with ongoing assistance focused on legislative and related issues, UNODC has begun to respond to requests regarding capacity-building in fighting organized crime and related issues of drug trafficking. The Anti-Organized Crime and Law Enforcement Unit of the Office has shifted the focus of its work from awareness-raising and training seminars to initiatives that strengthen the capacity of field offices and ensure a longer-term impact, such as placement in the field of short- and long-term mentors to provide assistance on specific capacity-building initiatives and dissemination and promotion of good practices among law enforcement officials.

24. Specific technical assistance on organized crime aims at undertaking a longer-term approach to capacity-building. The appointment of short- and long-term mentors has proved effective in training judges, prosecutors and law enforcement officials. Constant support to the mentors has been provided by UNODC in the form of research, preparation of material and presentations, legal analysis and administrative follow-up. The majority of activities during 2004 were undertaken in countries in Latin America, in particular in Guatemala and Peru. In both countries, the Office has been working to strengthen the national legal framework and operational capacity to investigate, prosecute and adjudicate cases of organized crime and corruption.

25. In Peru, various activities have been undertaken to enhance the capacity of the authorities to identify and recover illicit assets, to establish a witness protection programme and to train prosecutors. With assistance from the mentor, the first case concerning both organized crime and corruption was adjudicated in December 2003.

26. In Guatemala, UNODC has held several training workshops on the Convention and its Protocols for judges and prosecutors. The Office also participated in a multi-institutional working group responsible for drafting legislation on trafficking in persons, smuggling of migrants and other areas relating to women and children. Legal advice has been provided concerning efforts to counter money-laundering; efforts to deal with the obstruction of justice; the criminalization of participation in an organized criminal group; and witness protection. The Office has also monitored the development of the Commission for the Investigation of Illegal Groups and Clandestine Security Forces (CICIAS).

27. In 2004, assessment missions to Ecuador, Ukraine and countries in the Caucasus were carried out. In Mexico, the Office has been requested to provide training for prosecutors on investigative techniques to counter organized crime and related offences. Further cooperation in the implementation of the Organized Crime Convention by the appointment of mentors is being planned for West Africa and South-East Asia.

28. In a number of resolutions adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council has requested UNODC to take action in the area of kidnapping, in particular in determining best practices to counter the phenomenon. With financing provided by the Government of Colombia, UNODC is working on the development of a global best practice manual to counter kidnapping, a practical tool for law enforcement authorities and public policy guide for legislators worldwide. An initial expert group meeting with representatives of Brazil, Colombia and Mexico was held in Vienna in November 2004, the outcome of which was a first draft of the manual. The document will be submitted to a larger expert group meeting, with representatives from other regions, which will be held in Vienna from 15 to 17 March 2005. The meeting will refine and revise the draft manual. Based on input from the international experts present, it is hoped to finalize the manual for publication in all the official languages of the United Nations by October 2005.

29. Given the growing recognition of the special role of witnesses in criminal proceedings, specially in cases involving organized crime, the Office is also focusing on work in the field of witness protection through extensive research and

the organization of an expert group meeting to prepare for future technical assistance in the development of witness protection programmes for Member States.

30. As at 23 February 2005, the Office had provided individual assistance to 52 States and had received additional requests from several others.

3. Legislative guides

31. To further assist States seeking to ratify the instruments, UNODC has produced legislative guides for the implementation of the Organized Crime Convention and each of its Protocols,¹ the primary purpose of which is to assist States in the ratification and implementation process by identifying legislative requirements, issues arising from those requirements and options available to States in developing and drafting the necessary legislation, using samples of legislative provisions and measures adopted by various States. The guides do not deal with interpretation of the instruments; they are geared towards providing advice to States in legislative matters and do not constitute model legislation. The legislative guides were made available to the Conference of the Parties at its first session.

32. The Office has sought the best way of achieving maximum impact from the guides at the lowest possible cost, while ensuring their widest possible dissemination. The guides are available in the six official languages of the United Nations on the UNODC website (http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html), while a limited number of hard copies have also been produced.

4. Model laws and treaties

33. UNODC has continued to assist States in implementing the mutual legal assistance and extradition provisions of the Organized Crime Convention, as well as instruments on drug control and fighting terrorism, using an integrated approach.

34. Pursuant to General Assembly resolution 52/88 of 12 December 1997, the Model Law on Extradition has been finalized and made available on the website of the Office. The fundamental principle behind the Model Law is the recognition that effective cooperation in the field of extradition can be achieved through, *inter alia*, the existence of streamlined national legislation that can be used in two ways: firstly, where extradition treaties or arrangements exist, as a procedural or enabling framework, not with a view to replacing or substituting a treaty in force, but in order to support its implementation; and secondly, in cases of States that extradite in the absence of a treaty, as a supplementary, comprehensive and self-standing framework for surrendering fugitives to the requesting State.

35. In cooperation with the International Institute of Higher Studies in Criminal Sciences and its Monitoring Centre on Organized Crime, the Office organized an expert group meeting on the development of a model law on mutual legal assistance in conjunction with an expert group meeting on the development of a hypothetical extradition case for training purposes, in Siracusa, Italy, from 30 November to 3 December 2004. The model law on mutual legal assistance and a hypothetical extradition case are in the process of being revised so that they best meet the needs of comprehensive training programmes on international cooperation in criminal matters.

36. *The Manual on the Model Treaty on Extradition* and the *Manual on the Model Treaty on Mutual Assistance in Criminal Matters*² were reviewed by an intergovernmental expert group meeting, organized by UNODC, in cooperation with the International Association of Penal Law and the International Institute of Higher Studies in Criminal Sciences and its Monitoring Centre on Organized Crime. The new versions have been further updated to include more comprehensive references to the Organized Crime Convention and appear on the UNODC website (http://www.unodc.org/unodc/en/legal_advisory_tools.html).

37. Moreover, a draft model bilateral agreement on disposal of confiscated proceeds of crime covered by the Organized Crime Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988³ was reviewed at an intergovernmental expert group meeting held in Vienna from 26 to 28 January 2005 (see E/CN.15/2005/7).

5. Treaty events

38. Following the 2003 treaty event to promote the treaties against transnational organized crime and terrorism, the Organized Crime Convention and its Protocols were included in the 2004 treaty event relating to treaties on the protection of civilians held in New York from 21 to 24 September 2004.

39. The 2004 treaty event generated additional ratifications of the Convention and Protocols: the Convention, the Trafficking in Persons Protocol and the Migrants Protocol received four ratifications or accessions each. The Firearms Protocol received one ratification and one accession.

40. During 2005, two treaty events are scheduled to take place with a view to further promoting the ratification of the instruments, in particular the entry into force of the Firearms Protocol. A special treaty event that is to be organized in New York in April 2005, while the Eleventh United Nations Congress on Crime Prevention and Criminal Justice is being held in Bangkok, will provide participating States a unique opportunity to undertake treaty action relating to the Organized Crime Convention and its Protocols, as well as treaties on corruption and terrorism (see also paras. 56-58 below). Furthermore, in line with the recommendations made in the report of the High-level Panel on Threats, Challenges and Change, entitled "A more secure world: our shared responsibility" (A/59/565 and Corr.1) the annual treaty event, to be held in New York in September 2005, will focus on the theme "Responding to global challenges" and invite ratification of or accession to the Organized Crime Convention and its Protocols.

III. Conference of the Parties

41. The Conference of the Parties, as the mechanism for reviewing the implementation of the Organized Crime Convention and its Protocols, was convened in Vienna on 28 June 2004 for its inaugural session. Fifty-seven States parties, as well as 42 signatories and 4 non-signatory States, participated in the Conference.

42. The Conference of the Parties discussed the desirability and feasibility of establishing a multi-year programme of work on the basis of a note prepared by the Secretariat and a proposal submitted by Australia and New Zealand. The Conference

endorsed a work plan for its second session in the following three thematic fields: (a) the basic adaptation of national legislation in accordance with the Convention and its Protocols; (b) criminalization legislation and difficulties encountered in implementation of the instruments; and (c) international cooperation and technical assistance to overcome difficulties identified in implementing the Convention and its Protocols.

43. Taking into account the specific objectives of the two Protocols already in force, the Conference developed further work plans for its second session in order to better organize discussion on the implementation of those Protocols. As regards the Trafficking in Persons Protocol, the work will be focused on: (a) the basic adaptation of national legislation in accordance with the Protocol; (b) criminalization legislation and difficulties encountered in implementation of the Protocol; (c) international cooperation and technical assistance to overcome difficulties identified in implementing the Protocol; and (d) protection of victims and preventive measures, including awareness-raising. As regards the Migrants Protocol, the work plan will include the following: (a) the basic adaptation of national legislation in accordance with the Protocol; (b) criminalization legislation and difficulties encountered in implementation of the Protocol; (c) international cooperation and technical assistance to overcome difficulties identified in implementing the Protocol; and (d) implementation of articles 15 and 16 of the Protocol.

44. In order to identify the needs and concerns of States in ratifying and implementing the Convention and its Protocols and with a view to collecting information from States parties and signatories to the Convention and the two Protocols already in force, the Secretariat prepared draft questionnaires on the implementation of the instruments in line with the work plans outlined above. The Conference reviewed the questionnaires and endorsed them as amended. Analytical reports based on the responses to the questionnaires will be prepared by the Secretariat and submitted to the Conference of the Parties at its second session.

45. The Conference requested the Secretariat to submit a report to it at its second session containing the full text of notifications, declarations and reservations made by States parties in connection with the Convention and the Protocols.

46. The Conference also decided to request the Secretariat to prepare a working paper for submission and further consideration at its second session that would provide information on technical assistance provided by the Secretariat, as well as on readily available information on technical assistance provided by other relevant international and regional organizations. The paper would also describe the methodology applied by the Secretariat in providing technical assistance and would further incorporate information on relevant action taken by bodies similar to the Conference of the Parties, as well as on methods used and experience gained by such bodies regarding the financing of their technical cooperation activities.

47. The second session of the Conference is scheduled to be held in Vienna, from 10 to 21 October 2005. The provisional agenda for the second session, as adopted at the first session of the Conference, is as follows:

1. Organizational matters:

- (a) Opening of the second session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;
 - (b) Election of officers;
 - (c) Adoption of the agenda and organization of work;
 - (d) Participation of observers;
 - (e) Adoption of the report of the bureau on credentials.
2. Review of the implementation of the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Convention;
 - (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of the relevant provisions of the Convention in accordance with its article 34, paragraph 2;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Convention.
3. Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Trafficking in Persons Protocol;
 - (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of article 5 of the Trafficking in Persons Protocol;
 - (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Trafficking in Persons Protocol;
 - (d) Exchange of views and experience regarding the protection of victims and preventive measures, gained primarily in the implementation of articles 6 and 9 of the Trafficking in Persons Protocol, including awareness-raising.
4. Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime:
 - (a) Consideration of the basic adaptation of national legislation in accordance with the Migrants Protocol;
 - (b) Commencement of the examination of criminalization legislation and difficulties encountered in the implementation of article 6 of the Migrants Protocol;

- (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Migrants Protocol;
 - (d) Exchange of views and experience gained in the implementation of articles 15 and 16 of the Migrants Protocol.
5. Technical assistance activities.
 6. Consideration of mechanisms for achieving the objectives of the Conference of the Parties in accordance with article 32, paragraphs 3-5, of the Convention.
 7. Consideration of notification requirements in accordance with the relevant articles of the Convention (art. 5, para. 3; art. 6, para. 2 (d); art. 13, para. 5; art. 16, para. 5 (a); art. 18, paras. 13 and 14; and art. 31, para. 6) and the Migrants Protocol (art. 8).
 8. Other matters.
 9. Provisional agenda for the third session of the Conference of the Parties.
 10. Adoption of the report of the Conference of the Parties on its second session.

IV. Towards a United Nations system-wide response to organized crime

48. At its session held in Vienna on 2 and 3 April 2004, the United Nations System Chief Executives Board for Coordination addressed the issue of curbing transnational organized crime, one of the themes highlighted in the Secretary-General's road map on the implementation of the United Nations Millennium Declaration (General Assembly resolution 55/2). The Board reviewed the impact of transnational organized crime in the three critical areas covered by the Millennium Declaration—peace and security; development; and human rights, democracy and good governance—and identified a number of actions that would form part of a strategic system-wide response to organized crime. The system-wide response would build on the work and expertise of the relevant agencies and on recent progress in achieving a global consensus on curbing organized crime and corruption (see E/2004/67, paras. 18-23).

49. The Board agreed on a series of measures for immediate implementation as well as a number of broader interventions to be undertaken in the short and medium term by the United Nations organizations concerned, in accordance with their respective mandates, to build an effective inter-agency response to curbing transnational organized crime. UNODC, as the lead body for follow-up to the decisions of the Board, is responsible both for coordinating the gathering of information on the nature and impact of organized criminal activity in various sectors of concern to the United Nations and the identification of various initiatives under way throughout the United Nations system to counter the problem. Clusters of interested organizations have also been established to ensure timely action for the effective implementation of the measures identified by the Board. A full report on

progress made was provided to the High-level Committee on Programmes of the Board at its ninth session, held in Rome from 23 to 25 February 2005.

V. High-level Panel on Threats, Challenges and Change

50. In 2003, the Secretary-General appointed a High-level Panel on Threats, Challenges and Change and requested it to make recommendations for strengthening the United Nations based on its assessment of current threats to international peace and security. The final report of the High-level Panel (A/59/565 and Corr.1) was submitted to the Secretary-General in December 2004.

51. In its report, the High-level Panel identified transnational organized crime as one of the six major threats with which the world must be concerned. Recognizing direct threats posed by transnational organized crime to human security and the rule of law, the Panel also underlined that organized crime increased the risk of all the other threats by creating opportunities for “uncivil” society. It was further noted that a key trend with respect to transnational organized crime was its growing diversity, flexibility, low visibility and longevity.

52. Based on those observations, the High-level Panel made the following recommendations in relation to the Organized Crime Convention and its Protocols:

(a) Member States that have not signed, ratified or resourced the Organized Crime Convention and its three Protocols and the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) should do so, and all Member States should support UNODC in its work in this area (para. 172);

(b) Member States should establish a central authority to facilitate the exchange of evidence among national judicial authorities, mutual legal assistance among prosecutorial authorities and the implementation of requests for extradition (para. 173);

(c) A comprehensive international convention on money-laundering that addresses the issues of bank secrecy and the development of financial havens needs to be negotiated, and endorsed by the General Assembly (para. 174);

(d) Member States should sign and ratify the Trafficking in Persons Protocol and parties to the Protocol should take all necessary steps to effectively implement it (para. 175);

(e) The United Nations should establish a robust capacity-building mechanism for rule-of-law assistance (para. 177).

53. Furthermore, the High-level Panel made the following recommendation concerning the problems of small arms and light weapons, which is relevant to the Firearms Protocol: Member States should expedite and conclude negotiations on legally binding agreements on the marking and tracing, as well as the brokering and transfer, of small arms and light weapons (para. 96).

VI. Eleventh United Nations Congress on Crime Prevention and Criminal Justice

A. Substantive item

54. Substantive item 1 of the Eleventh Congress will focus on specific aspects of the prevention and control of transnational organized crime, as well as on practical methods with the potential for rendering related efforts more effective. The Congress could thus provide useful input to the Conference of the Parties concerning the implementation mechanism of the Convention and its Protocols.

55. The Congress will provide opportunities to discuss current or emerging issues with criminal justice practitioners from various entities, while review of the implementation of the Convention and its Protocols will be carried out by the Conference of the Parties.

B. Special treaty event

56. In view of the considerable number of ratifications of the Organized Crime Convention and its Protocols generated by the treaty event held in New York in September 2003, it was decided to take advantage of the opportunity presented by the Eleventh Congress to organize a special treaty event on that occasion.

57. UNODC, in cooperation with the Treaty Section of the Office of Legal Affairs of the Secretariat, decided to offer States represented at the Congress an opportunity to deposit instruments of ratification, acceptance, approval or accession to the Organized Crime Convention and its Protocols, as well as the United Nations Convention against Corruption and the four United Nations conventions against terrorism deposited with the Secretary-General.

58. In view of the above, States represented at the Congress have been encouraged to undertake the necessary domestic procedures for the deposit of instruments of ratification, acceptance or approval by signatory States and accessions by non-signatory States for the above instruments. As treaties must remain at United Nations Headquarters in New York for signature, it has been decided to hold a parallel "signature event" at Headquarters on 25 April 2005.

VII. Conclusions and future action

59. The second session of the Conference of the Parties to the Convention will embark on the substantive review process of the implementation of the Convention, as well as of the Protocols that have entered into force by that time.

60. Particular attention should be paid to the Firearms Protocol, whose entry into force appears imminent. In accordance with its article 18, the Protocol will enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. The entry into force of the Protocol would give rise to an amendment to the agenda of the second session and thus allow the Conference to review in a comprehensive manner the implementation of the Convention and all three of its Protocols.

61. The importance of the continued support of States, as well as of their active involvement in the work of the Conference, as referred to in previous reports, cannot be overstressed. In initiating the knowledge-based approach adopted by the Conference for its review of the implementation of the Convention and the Protocols, it will be indispensable for the Conference to be fully informed of progress made and difficulties encountered in the implementation of those instruments. In that connection, it should be recalled that, in its decisions 1/2, 1/5 and 1/6, the Conference requested States parties to respond promptly to the questionnaires on the implementation of the Convention and the two Protocols.

62. As the Conference of the Parties to the Convention becomes fully functional, the Commission on Crime Prevention and Criminal Justice may wish to consider the most appropriate ways to coordinate its work with that of the Conference, in line with its function as the principle policy-making body of the United Nations in crime prevention and criminal justice. In that context, the Commission may wish to keep in mind the report of the Secretary-General on the functioning of the Commission and the management of the United Nations Crime Prevention and Criminal Justice Fund, submitted to the Commission at its thirteenth session (E/CN.15/2004/14 and Corr.1).

63. Furthermore, the Commission may wish to give special consideration to the recommendations of the High-level Panel on Threats, Challenges and Change.

Notes

¹ *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations publication, Sales No. E.05.V.2).

² United Nations publication, Sales No. E.96.IV.2.

³ United Nations, *Treaty Series*, vol. 1582, No. 27627.

Annex

Status of ratifications as at 8 March 2005

A. Summary of signatures and ratifications

<i>International instrument</i>	<i>Signatures</i>	<i>Ratifications</i>
United Nations Convention against Transnational Organized Crime	147	100
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	117	80
Protocol against the Smuggling of Migrants by Land, Sea and Air	112	69
Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition	52	35

B. Ratifications of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, by region

	<i>Date of ratification</i>			
	<i>Organized Crime Convention</i>	<i>Trafficking in Persons Protocol</i>	<i>Migrants Protocol</i>	<i>Firearms Protocol</i>
Africa				
Algeria	7 October 2002	9 March 2004	9 March 2004	25 August 2004 ^a
Benin	30 August 2004	30 August 2004	30 August 2004	30 August 2004
Botswana	29 August 2002	29 August 2002	29 August 2002	
Burkina Faso	15 May 2002	15 May 2002	15 May 2002	15 May 2002
Cape Verde	15 July 2004	15 July 2004	15 July 2004	15 July 2004
Central African Republic	14 September 2004 ^a			
Comoros	25 September 2003 ^a			
Egypt	5 March 2004	5 March 2004	1 March 2005 ^a	
Equatorial Guinea	7 February 2003	7 February 2003		
Gabon	15 December 2004 ^a			
Gambia	5 May 2003	5 May 2003	5 May 2003	
Guinea	9 November 2004 ^a	9 November 2004 ^a		
Kenya	16 June 2004 ^a	5 January 2005 ^a	5 January 2005 ^a	5 January 2005 ^a
Lesotho	24 September 2003	24 September 2003	24 September 2004	24 September 2003 ^a
Liberia	22 September 2004 ^a	22 September 2004 ^a	22 September 2004 ^a	22 September 2004 ^a
Libyan Arab Jamahiriya	18 June 2004	24 September 2004	24 September 2004	
Mali	12 April 2002	12 April 2002	12 April 2002	3 May 2002
Mauritius	21 April 2003	24 September 2003 ^a	24 September 2003 ^a	24 September 2003 ^a
Morocco	19 September 2002			
Namibia	16 August 2002	16 August 2002	16 August 2002	
Niger	30 September 2004	30 September 2004		
Nigeria	28 June 2001	28 June 2001	27 September 2001	
Rwanda	26 September 2003	26 September 2003		
Senegal	27 October 2003	27 October 2003	27 October 2003	
Seychelles	22 April 2003	22 June 2004	22 June 2004	
South Africa	20 February 2004	20 February 2004	20 February 2004	20 February 2004
Sudan	10 December 2004			
Togo	2 July 2004			
Tunisia	19 June 2003	19 June 2003	19 June 2003	
Regional total	29	23	19	10

	<i>Date of ratification</i>			
	<i>Organized Crime Convention</i>	<i>Trafficking in Persons Protocol</i>	<i>Migrants Protocol</i>	<i>Firearms Protocol</i>
Asia and the Pacific				
Afghanistan	24 September 2003			
Bahrain	7 June 2004 ^a	7 June 2004 ^a	7 June 2004 ^a	
China	23 September 2003			
Cook Islands	4 March 2004 ^a			
Kyrgyzstan	2 October 2003	2 October 2003	2 October 2003	
Lao People's Democratic Republic	26 September 2003 ^a	26 September 2003 ^a	26 September 2003 ^a	26 September 2003 ^a
Malaysia	24 September 2004			
Micronesia (Federated States of)	24 May 2004 ^a			
Myanmar	30 March 2004 ^a	30 March 2004 ^a	30 March 2004 ^a	
Philippines	28 May 2002	28 May 2002	28 May 2002	
Saudi Arabia	18 January 2005			
Tajikistan	8 July 2002	8 July 2002 ^a	8 July 2002 ^a	
Uzbekistan	9 December 2003			
Regional total	13	6	6	1
Eastern Europe				
Albania	21 August 2002	21 August 2002	21 August 2002	
Armenia	1 July 2003	1 July 2003	1 July 2003	
Azerbaijan	30 October 2003	30 October 2003	30 October 2003	3 December 2004 ^a
Belarus	25 June 2003	25 June 2003	25 June 2003	6 October 2004 ^a
Bosnia and Herzegovina	24 April 2002	24 April 2002	24 April 2002	
Bulgaria	5 December 2001	5 December 2001	5 December 2001	6 August 2002
Croatia	24 January 2003	24 January 2003	24 January 2003	7 February 2005 ^a
Estonia	10 February 2003	12 May 2004	12 May 2004	12 May 2004
Latvia	7 December 2001	25 May 2004	23 April 2003	28 July 2004 ^a
Lithuania	9 May 2002	12 June 2003	12 May 2003	24 February 2005
Poland	12 November 2001	26 September 2003	26 September 2003	
Romania	4 December 2002	4 December 2002	4 December 2002	16 April 2004 ^a
Russian Federation	26 May 2004	26 May 2004	26 May 2004	
Serbia and Montenegro ^b	6 September 2001	6 September 2001	6 September 2001	
Slovakia	3 December 2003	21 September 2004	21 September 2004	21 September 2004
Slovenia	21 May 2004	21 May 2004	21 May 2004	21 May 2004
The former Yugoslav Republic of Macedonia	12 January 2005	12 January 2005	12 January 2005	
Ukraine	21 May 2004	21 May 2004	21 May 2004	
Regional total	18	18	18	10

	<i>Date of ratification</i>			
	<i>Organized Crime Convention</i>	<i>Trafficking in Persons Protocol</i>	<i>Migrants Protocol</i>	<i>Firearms Protocol</i>
Latin America and the Caribbean				
Antigua and Barbuda	24 July 2002			
Argentina	19 November 2002	19 November 2002	19 November 2002	
Belize	26 September 2003 ^a	26 September 2003 ^a		
Brazil	29 January 2004	29 January 2004	29 January 2004	
Chile	29 November 2004	29 November 2004	29 November 2004	
Colombia	4 August 2004	4 August 2004		
Costa Rica	24 July 2002	9 September 2003	7 August 2003	9 September 2003
Ecuador	17 September 2002	17 September 2002	17 September 2002	
El Salvador	18 March 2004	18 March 2004	18 March 2004	18 March 2004
Grenada	21 May 2004 ^a	21 May 2004 ^a	21 May 2004 ^a	21 May 2004 ^a
Guatemala	25 September 2003	1 April 2004 ^a	1 April 2004 ^a	1 April 2004 ^a
Guyana	14 September 2004 ^a	14 September 2004 ^a		
Honduras	2 December 2003			
Jamaica	29 September 2003	29 September 2003	29 September 2003	29 September 2003
Mexico	4 March 2003	4 March 2003	4 March 2003	10 April 2003
Nicaragua	9 September 2002	12 October 2004 ^a		
Panama	18 August 2004	18 August 2004	18 August 2004	18 August 2004
Paraguay	22 September 2004	22 September 2004		
Peru	23 January 2002	23 January 2002	23 January 2002	23 September 2003 ^a
Saint Kitts and Nevis	21 May 2004	21 May 2004 ^a	21 May 2004 ^a	21 May 2004 ^a
Uruguay	4 March 2005	4 March 2005	4 March 2005	
Venezuela (Bolivarian Republic of)	13 May 2002	13 May 2002		
Regional total	22	20	14	9
Western Europe and other States				
Australia	27 May 2004		27 May 2004	
Austria	23 September 2004			
Belgium	11 August 2004	11 August 2004	11 August 2004	24 September 2004
Canada	13 May 2002	13 May 2002	13 May 2002	
Cyprus	22 April 2003	6 August 2003	6 August 2003	6 August 2003
Denmark	30 September 2003	30 September 2003		
Finland	10 February 2004			
France	29 October 2002	29 October 2002	29 October 2002	
Malta	24 September 2003	24 September 2003	24 September 2003	
Monaco	5 June 2001	5 June 2001	5 June 2001	

	<i>Date of ratification</i>			
	<i>Organized Crime Convention</i>	<i>Trafficking in Persons Protocol</i>	<i>Migrants Protocol</i>	<i>Firearms Protocol</i>
Netherlands	26 May 2004			8 February 2005 ^a
New Zealand	19 July 2002	19 July 2002	19 July 2002	
Norway	23 September 2003	23 September 2003	23 September 2003	23 September 2003
Portugal	10 May 2004	10 May 2004	10 May 2004	
Spain	1 March 2002	1 March 2002	1 March 2002	
Sweden	30 April 2004	1 July 2004		
Turkey	25 March 2003	25 March 2003	25 March 2003	4 May 2004
European Community	21 May 2004			
Regional total	18	13	12	5
Total	100	80	69	35

^a Accession.

^b Following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003 and earlier by the Republic of Serbia and the Republic of Montenegro, the name of the State of the Federal Republic of Yugoslavia has been changed to “Serbia and Montenegro”.