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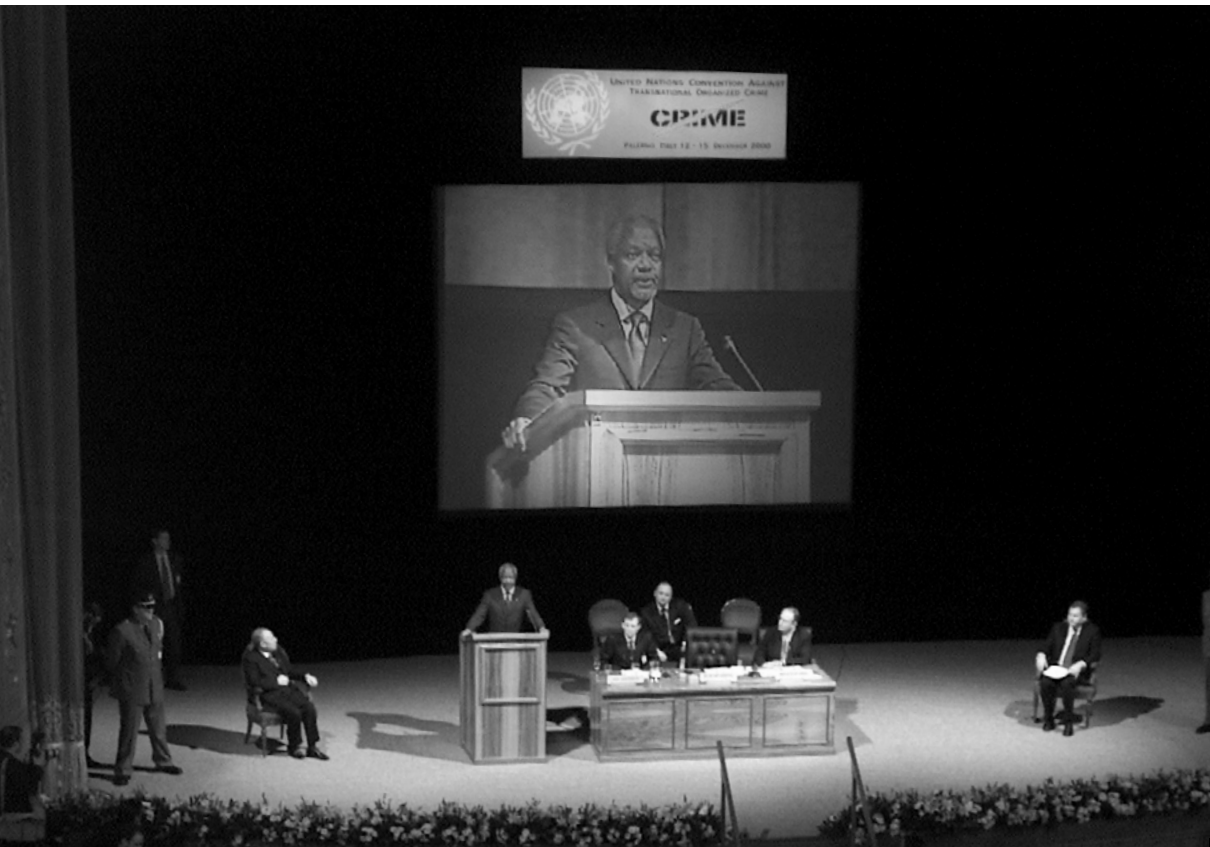
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# UNTOC *AT* 20

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Commemorating the 20th anniversary of the adoption  
by the General Assembly of the

**UNITED NATIONS CONVENTION AGAINST  
TRANSNATIONAL ORGANIZED CRIME**



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Cover photo © UN Photo/Eskinder Debebe

Secretary-General Kofi Annan opening the high-level signing conference of the United Nations Convention against Transnational Organized Crime. Seated at long podium (left to right): Piero Fassino, Minister of Justice of Italy, and Pino Arlacchi, Executive Director of the United Nations Office for Drug Control and Crime Prevention in Vienna. 12 December 2000, Palermo, Italy.

UNITED NATIONS OFFICE ON DRUGS AND CRIME

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# UNTOC *AT* 20

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Commemorating the 20th anniversary  
of the adoption by the General Assembly  
of the United Nations Convention against  
Transnational Organized Crime



UNITED NATIONS  
Vienna, 2020

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# Introduction

## Introduction

The [United Nations Convention against Transnational Organized Crime](#) was adopted by the General Assembly on 15 November 2000, in its resolution [55/25](#), and was opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy. It entered into force on 29 September 2003, on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, pursuant to article 38. The Convention is also known as the Organized Crime Convention, the UNTOC, or the Palermo Convention.

The year 2020 marks the twentieth anniversary of the adoption by the General Assembly of the UNTOC. It also coincides with the tenth session of the Conference of the Parties to UNTOC (COP 10), to be held in Vienna from 12 to 16 October, which will launch the review process of the Review Mechanism of the UNTOC and the Protocols thereto.

This short publication was prepared by the United Nations Office on Drugs and Crime (UNODC) to commemorate the twentieth anniversary of the UNTOC. It contains a short discussion on the concept of transnational organized crime and current trends in this regard. It offers information on the contents and negotiating history of the UNTOC, as well as on the Conference of the Parties and the recently established Review Mechanism. Furthermore, it explains the work of UNODC in assisting Member States to implement the UNTOC through its specialized technical work at headquarters and in the field. Examples are offered through the text to illustrate the descriptions or explanations, and a list of useful resources is included at the end.

### What is transnational organized crime?

As has been reiterated by the General Assembly on numerous occasions, transnational organized crime has negative effects on development, peace, stability and security, and human rights, and there is increasing vulnerability of States to such crime and a growing degree of penetration of criminal organizations and their financial and economic resources into the economy.<sup>1</sup> It must be addressed as part of a comprehensive response to

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<sup>1</sup>See, for instance, [General Assembly resolution 74/177](#) of 18 December 2019, entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”.



foster durable solutions through the promotion of human rights and more equitable socioeconomic conditions and through strengthened international cooperation, based on the principles of shared responsibility and in accordance with international law.<sup>2</sup>

The United Nations Convention against Transnational Organized Crime contains no specific definition of “organized crime”, nor does it contain a list of crimes that might be considered as such. Indeed, there is no consensus to date on a standard definition of this concept among practitioners or academics, and a definition is not contained in any international legally binding instrument. To enable a wide scope of application of the UNTOC, including as regards new and emerging forms of crime, while capturing the complexity of the phenomenon of organized crime, a precise definition was omitted from the Convention.<sup>3</sup> The Convention does include, however, a definition of “organized criminal group” and explains the “transnational nature” of an offence, among other key concepts, such as that of “serious crime”.<sup>4</sup> The implied definition of “transnational organized crime” encompasses virtually all serious profit-motivated criminal actions of an international nature where more than one country is involved.<sup>5</sup>

In relation to organized crime in general, the most common illicit activities can be said to fall under three main categories that include provision of illicit goods, provision of illicit services, and the infiltration of legitimate business or government.<sup>6</sup> Typical forms of organized crime of a transnational nature include drug trafficking, human trafficking, firearms trafficking and the smuggling of migrants, in which organized criminal groups work across many different jurisdictions to achieve their illicit goals.

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<sup>2</sup>Ibid.

<sup>3</sup>See, for instance, the discussion on page xxi of the *Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, United Nations, New York, 2006.

<sup>4</sup>See also the section below on “Contents of the UNTOC”.

<sup>5</sup>Fact sheet on *Transnational Organized Crime – The Globalized Illegal Economy*, United Nations Office on Drugs and Crime.

<sup>6</sup>“Activities, organization and composition of organized criminal groups”, E4J University Module Series, *Organized Crime, Module 1: Definitions of Organized Crime*, United Nations Office on Drugs and Crime, 2018.

## Transnational organized crime in the UNTOC

### Article 2 Use of terms

*(a)* “**Organized criminal group**” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

### Article 3 Scope of application

2. [...] **an offence is transnational in nature** if: *(a)* It is committed in more than one State; *(b)* It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; *(c)* It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or *(d)* It is committed in one State but has substantial effects in another State.

The reality of organized crime is complex and multifaceted, but at its core is always the objective of organized criminal groups to obtain illicit profits and control markets of illicit goods and services, while seizing opportunities to infiltrate governments and the licit economy. Organized criminal groups often use violence and corruption to achieve their goals and often exploit legal persons, such as firms or corporations, to commit crimes or launder the proceeds of illegal activities.<sup>7</sup> The impact of organized crime can be felt by people around the world in their everyday lives, often in the form of fear of violence or direct harm from the acts of organized criminal groups, and pervasive corruption.

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<sup>7</sup>E4J University Module Series, Module 1: “Definitions of Organized Crime”, United Nations Office on Drugs and Crime, 2018.

## Emerging and evolving forms of crime

The ways in which transnational organized criminal groups are reaping profit are becoming more creative. As organized criminal groups join ever more complex networks spanning the globe, the crimes become increasingly transnational and the types of crime they are able to commit become diversified, as do their *modi operandi*. Some of the more prevalent emerging or evolving forms of crime are:<sup>8</sup>

- Cybercrime
- Identity-related crime
- Trafficking in cultural property
- Environmental crime
- Falsified medical products
- Trafficking in precious metals, stones and other minerals

In addition, the General Assembly has also expressed deep concern about the growing links, in some cases, between forms of transnational organized crime and terrorism, recognizing that countering transnational organized crime and terrorism is a common and shared responsibility.<sup>9</sup> The General Assembly has also expressed concern that terrorists may benefit from transnational organized crime in some regions, including from trafficking in arms, drugs and cultural property, as well as trafficking in persons and human organs, and from the illicit trade in natural resources, including oil, and in oil products, modular refineries and related material, precious metals, stones and other minerals, charcoal and wildlife, as well as from kidnapping for ransom and other crimes, including extortion, money-laundering and bank robbery.<sup>10</sup>

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<sup>8</sup>For more information, see the section on “Emerging Crimes” on the UNODC website.

<sup>9</sup>See [General Assembly resolution 74/177](#) of 18 December 2019, entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”.

<sup>10</sup>*Ibid.*

## Effects of COVID-19 on transnational organized crime

The COVID-19 pandemic has caused severe human and economic damage worldwide. Governments have imposed restrictions on economic activity and mobility to stop the spread of the virus. With many governments forcing the closure of companies in an effort to curb the pandemic, an economic downturn and rising unemployment rates have been inevitable.<sup>11</sup> In this context, the impact of COVID-19 on transnational organized crime has been significant and some of the more prominent examples are described here.<sup>12</sup>

**Human trafficking and migrant smuggling:** As travel and movement restrictions have been declared by governments worldwide and borders have been closed, migrants and refugees fleeing from their home countries have had an even greater need for the services of smugglers to cross borders. Closures and restrictions have often resulted in the use of riskier routes and conditions, and higher prices for smuggling services, which in turn expose people to increased abuse, exploitation and human trafficking.<sup>13</sup> Moreover, the sharp increase in unemployment rates globally are likely to increase cross-border trafficking in persons from countries which are the most affected by the pandemic and its consequences.<sup>14</sup>

Furthermore, **corruption** always thrives in times of crisis. In order to avoid a global economic collapse, Member States have responded with measures such as emergency rescue packages for citizens and businesses in need.<sup>15</sup> The vast amount of resources allocated and the speed at which they are being disbursed present opportunities for corrupt practices, such as embezzlement, bribes and price gouging in essential medicines, medical supplies and equipment, and the manipulation of procurement processes for crucial

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<sup>11</sup>For more information, see *World Economic Situation and Prospects: May 2020 Briefing*, No. 137, Department of Economic and Social Affairs, United Nations, 2020.

<sup>12</sup>For a more complete analysis, see the *Research Brief on the impact of COVID-19 on organized crime*, United Nations Office on Drugs and Crime, 2020.

<sup>13</sup>See also the *Research Brief on How Covid-19 restrictions and the economic consequences are likely to impact migrant smuggling and cross-border trafficking in persons to Europe and North America*, p. 6. United Nations Office on Drugs and Crime, 2020.

<sup>14</sup>*Ibid.*, p. 7.

<sup>15</sup>Information note on *Accountability and the prevention of corruption in the allocation and distribution of emergency economic rescue packages in the context and aftermath of the COVID-19 pandemic*, p. 1. United Nations Office on Drugs and Crime, 2020.

health sector resources.<sup>16</sup> Anti-corruption institutions are being challenged by the pandemic-related crises to ensure that emergency economic rescue and stimulus packages reach intended beneficiaries.

**Trafficking in illicit drugs** relies heavily on legal trade to disguise its activities and on individuals being able to distribute illicit drugs to consumers. The measures implemented by governments to counter the COVID-19 pandemic, such as closing borders and imposing restrictions on travel, have thus inevitably affected all aspects of the illegal drug markets, from the production and trafficking of drugs to their consumption. For example, while trafficking by air is likely to be disrupted by the imposed restrictions, there are signs of increased use of alternative ways, such as the maritime route, when it comes to trafficking cocaine and heroin to Europe.<sup>17</sup>

Criminal groups have also sought to make profits by **trafficking falsified and standard medical products** (for example hand sanitizers and face masks) since the beginning of the COVID-19 pandemic. Falsified medical products can contain harmful substances and endanger people's health, and are often linked to money-laundering, corruption and cybercrime (scams).<sup>18</sup>

In addition, **cybercrime** has been evolving and growing in the context of the COVID-19 pandemic through online fraud, extortion and online child sexual abuse targeting individuals, as well as through ransomware that primarily compromises systems, including hospitals. Organized crime groups have also taken advantage of the home-based working situation, primarily through phishing scams that enable malicious access to critical systems.<sup>19</sup>

More information on COVID-19 and transnational organized crime may be found [here](#).

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<sup>16</sup>Information note on Covid-19 fiscal response and the prevention of corruption. United Nations Office on Drugs and Crime, 2020.

<sup>17</sup>Research brief on COVID-19 and the drug supply chain: from production and trafficking to use, p. 5. United Nations Office on Drugs and Crime, 2020.

<sup>18</sup>See, for instance, "Falsified medicines in the wake of COVID-19: an emerging threat for security and public health in Nigeria".

<sup>19</sup>See also the information note on Cybercrime and COVID-19: Risks and Responses. United Nations Office on Drugs and Crime, 2020.



What is the  
UNTOC?

## What is the UNTOC?

The [United Nations Convention against Transnational Organized Crime](#) is the main international instrument in the fight against transnational organized crime. On the occasion of the adoption of the Convention in 2000, Secretary-General Kofi Annan stated that this instrument represented “a new tool to address the scourge of crime as a global problem” and that “[i]f crime crosses borders so must law enforcement. If the Rule of Law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means”.<sup>20</sup>

In its resolution [74/177](#), the General Assembly has also reaffirmed that “the [UNTOC], the twentieth anniversary of which will be celebrated in 2020, and the Protocols thereto represent the most important tools of the international community for fighting transnational organized crime, including cybercrime, and notes with appreciation that the number of States Parties has reached 190, which is a significant indication of the commitment shown by the international community to combating transnational organized crime”.

Indeed, as stated in article 1 of the Convention, its purpose is to “promote cooperation to prevent and combat transnational organized crime more effectively”. With such a purpose, and given the transnational nature of organized crime, the effectiveness of the UNTOC depends on the extent of its ratification and implementation by States Parties.

## Protocols

In addition to the Convention, the General Assembly also adopted two supplementary protocols through resolution [55/25](#):

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also known as the Trafficking in Persons Protocol), which entered into force on 25 December 2003
- and

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<sup>20</sup>Foreword to published version of the UNTOC.



- The Protocol against the Smuggling of Migrants by Land, Sea and Air (also known as the Smuggling of Migrants Protocol), which entered into force on 28 January 2004

In 2001, the General Assembly adopted the Protocol against the Illicit Manufacturing and Smuggling of Firearms (also known as the Firearms Protocol) through its resolution 55/255, which entered into force on 3 July 2005.

These three instruments are supplementary to the Protocol, and to become a party to any of the Protocols, a State must first become a party to the Convention (article 37 of the Convention and article 1 of each Protocol).

### Status of adherence

With its 190 parties at present, the Organized Crime Convention is one of the most widely ratified United Nations treaties. Despite the near-universal adherence, the Convention continues to be an underutilized instrument, as its implementation remains a challenge for many States Parties.

Under the UNODC Global Programme on Support to the work of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (GLOT60), UNODC supported all non-parties and held workshops aimed at deepening the understanding of authorities and practitioners regarding the requirements of the Convention, to facilitate accession or ratification. To facilitate national implementation efforts, UNODC, through GLOT60, also delivered technical assistance to experts from more than 70 States Parties with a focus on specific requirements of the Convention.

As an example of this work, to further the Convention's reach, in September 2018, UNODC convened representatives from nine Eastern African States in Vienna to support the ratification or accession process of States not yet Party to the Convention and its Protocols. The meeting examined the provisions of these instruments, the ratification and accession requirements, and available UNODC tools. The workshop gathered 17 senior officials and legal advisers involved in areas related to organized crime, trafficking in persons and smuggling of migrants from Comoros, Congo, Djibouti, Eritrea, Ethiopia, Kenya, South Sudan, Sudan and Uganda.

### Status of adherence (continued)

Both States Parties and non-Parties to the instruments attended, which allowed for the exchange of information, positive experiences and challenges. Guided by UNODC experts during the three-day workshop, several officials expressed interest to become parties to the different instruments. More information on the workshop is available [here](#).

## Contents of the UNTOC

The UNTOC is composed of 41 articles, of which four describe conduct that States Parties must criminalize under their national law, accompanied by appropriate sanctions. In addition, numerous articles refer to a series of supportive measures for criminal justice and law enforcement response, either of substantive or procedural nature, such as articles 10, 12, 15 or 24. Others focus on international cooperation in criminal matters, such as extradition, mutual legal assistance or other specific forms of international cooperation in criminal matters. The following paragraphs provide a quick overview of the main contents of the Convention.

### Use of terms

Article 2 of the Convention provides definitions of several terms that are repeated throughout the text. Even though the term “transnational organized crime” as such is not defined, article 2 explains what is considered an “organized criminal group”, a “serious crime”, or the “proceeds of crime” among other key terms.

In order to get a better understanding of the text of the Convention, these three terms, which reappear throughout the text, are explained below.

According to the definition in article 2 (a), **organized criminal group** consists of the following main elements:

- a structured group of **three or more persons**
- existing for a **period of time** and **acting in concert**
- with the aim of committing one or more **serious crimes or offences** (established in accordance with the Convention)

- in order to obtain, directly or indirectly, **financial or other material benefit**

A **serious crime**, as per article 2 (*b*), means “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty”.

The Convention adopts a flexible approach to what can be considered a serious crime, which focuses on the seriousness of the offence – based on the amount of criminal penalty associated to it rather than limiting itself to a predetermined and rigid list of offences.<sup>21</sup> This therefore widens the scope of the term “serious crime”, enabling it to cover several crime types, such as crimes against life and limb or drug-related crimes. Furthermore, in 2010, at the fifth session of the Conference, an expert consultation on the use of the UNTOC in combating emerging forms of crime was held. The outcome of this meeting was that the wide scope of the term is able to encompass traditional, emerging and future forms of crime, including cybercrime, environmental crime, fraudulent medicines and trafficking in cultural property.<sup>22</sup>

When it comes to article 6 of the Convention – Criminalization of the laundering of proceeds of crime, one of the four criminal offences established in the UNTOC – it is important to understand the term **proceeds of crime**. As defined in article 2 (e) of the Convention, proceeds of crime means “any property derived from or obtained, directly or indirectly, through the commission of an offence”.

### Scope of application

Article 3 sets the scope of application of the Convention, according to which the Convention applies to the prevention, investigation and prosecution of the offences established in accordance with articles 5, 6, 8 and 23 (a more detailed explanation of those four offences follows below) and to serious crime, as defined in article 2.

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<sup>21</sup>The notion of serious crime in the United Nations Convention against Transnational Organized Crime – Note by the Secretariat, [CTOC/COP/2012/CRR.4](#) (20 September 2012); para. 3.

<sup>22</sup>Report of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime on its fifth session, held in Vienna from 18 to 22 October 2010, [CTOC/COP/2010/17](#), paras. 122–133.

Both the serious crime and the offences established in accordance with articles 5, 6, 8 or 23 of the Convention must have the common elements of transnationality and the involvement of an organized criminal group.

According to article 3 (2) of the Convention, a crime is **transnational** in nature if

- (a) It is committed in more than one State;
- (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
- (d) It is committed in one State but has substantial effects in another State.

According to article 1(3) of each Protocol, the scope of application of the Convention extends to the offences established in accordance with each Protocol as well.

### Implementation of the Convention

According to article 34 of the Convention, each State Party must take legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under the Convention, including establishing offences in line with articles 5, 6, 8 and 23, independently of the transnational nature or the involvement of an organized criminal group, except to the extent that article 5 – “Criminalization of participation in an organized criminal group” would require the involvement of an organized criminal group.

The main parts of the Convention are briefly discussed below, along with some examples of successful implementation by States Parties as reflected in their domestic laws.

### Substantive criminal law

The Convention sets out four specific offences that States Parties, according to article 34 (1), are required to criminalize in their domestic laws:

- participation in an organized criminal group (article 5)
- money-laundering (article 6)

- corruption (article 8)
- obstruction of justice (article 23)

States with relevant legislation already in place must ensure that the existing provisions conform to the Convention requirements and amend or possibly repeal their laws, if necessary. The severity of the punishment for the offences mandated by the Convention is left to the States Parties, but it must consider the gravity of the offence (article 11 (1)).

In addition, article 10, on the liability of legal persons, addresses the involvement of entities such as corporations, trusts, partnerships and trade unions in organized crime. Serious and organized crime is often committed through or under the cover of such legal entities, as complex corporate structures can often hide the true ownership, clients or transactions. Article 10 requires States Parties to adopt measures to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and the crimes established in the Convention, which may be criminal, civil or administrative. Such liability of a legal person shall be without prejudice to the criminal liability of the natural persons who have committed the offences (article 10 (2)). This article is both of a substantive and procedural nature and more information on its contents and legislative implementation may be found in the Legislative Guide to UNTOC.<sup>23</sup>

#### *Article 5 – Participation in an organized criminal group*

Article 5 of the Organized Crime Convention requires States Parties to criminalize participation in an organized criminal group and reflects different legal traditions by including both the concept of “conspiracy”, typically found in common law systems, and “criminal association”, predominantly used in countries with civil law traditions. Criminalization of participation in an organized criminal group is designed to target the increased risks to public safety presented by organized criminal groups.<sup>24</sup>

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<sup>23</sup>See the *Legislative Guide to the UNTOC*, United Nations Office on Drugs and Crime, 2018, paras. 271–304.

<sup>24</sup>UNODC Toolkit on stakeholder engagement, p. 33. United Nations Office on Drugs and Crime, 2020.

### *Article 6 – Laundering proceeds of crime*

Many activities of international organized criminal groups are directed at the accumulation of wealth through illegal means, such as trafficking in drugs, smuggling and fraud. In order to enjoy the financial or other material benefits of such activities, these groups must hide the illicit origin of their funds. Therefore, according to article 6 UNTOC, national legislations shall criminalize the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property and also, among others, the concealment or distinguishing of true nature with respect of property, knowing that such property is proceeds of crime and other conducts.

### *Article 8 – Criminalization of corruption*

Organized criminal groups frequently make use of corruption in the course of their operations. Bribery and other acts of corruption are used to create or exploit opportunities for criminal operations and to protect these operations from interference from criminal justice systems and other control structures. Corruption reduces risks, increases criminal profits and is less likely to attract the same attention and punishment as attempts to influence public officials through intimidation or actual violence.<sup>25</sup>

The mandatory offences under article 8 relate to corruption in the public sector and are:

- **Active bribery**, defined as the promise, offering or giving to a public official of an undue advantage, in order to act or refrain from acting in matters relevant to official duties. Legislation is required to implement this provision.
- **Passive bribery**, defined as the solicitation or acceptance by a public official of an undue advantage, in order to act or refrain from acting in matters relevant to official duties. Legislation is also required in this regard.
- **Participation** as an accomplice in either of the above offences.

Beyond the three mandatory offences described above, the Organized Crime Convention also requires that States consider the establishment of

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<sup>25</sup>*Legislative Guide to the UNTOC*, para. 185.

additional offences dealing with corruption of foreign officials or officials of international organizations, as well as other forms of corruption.<sup>26</sup>

### *Article 23 – Criminalization of obstruction of justice*

Organized criminal groups maintain or expand their wealth, power and influence by seeking to undermine systems of justice. Threats, coercion and violence are often used to pervert the course of justice, for example, by creating or presenting **false evidence**, giving **false testimony**, or by **influencing or intimidating witnesses**. No justice can be done if actors in the criminal justice process are intimidated, threatened or corrupted.<sup>27</sup>

Article 23 requires the establishment of the following two criminal offences:

- Use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage either to induce **false testimony** or to **interfere** in the **giving of testimony** or the **production of evidence** in proceedings in relation to offences covered by the Convention (article 23 (a))
- Use of physical force, threats or intimidation to **interfere** with the **exercise of official duties** by a justice or law enforcement official in relation to offences covered by the Convention (article 23 (b))

### Procedural law

In addition to substantive law, the Convention also contains several procedural provisions designed to ensure the effective application and implementation of the Convention, and in particular to meet its criminalization requirements. These include typical procedural provisions such as:

- the **jurisdiction** for the prosecution and punishment of offences under the Convention (article 15)
- provisions on **prosecution, adjudication** and **sanctions** (article 11)
- the **confiscation** and **seizure** of the proceeds of crime (article 12)
- the protection of witnesses and victims (articles 24–25)

<sup>26</sup>Ibid., para. 218.

<sup>27</sup>Ibid., para. 222.

- special investigative techniques (article 20)
- the establishment of a criminal record (article 22)

Of particular importance is **article 11**, which contains **provisions on criminal prosecution, adjudication and sanctions**. Most importantly, article 11 requires that States Parties give serious consideration to the gravity of the offences covered by the Convention when they decide on the appropriate punishment and the possibility of early release or parole.

The penalties and the purposes of punishment provided for similar crimes in various jurisdictions diverge significantly. This divergence reflects different national traditions, priorities and policies. It is essential, however, to ensure that at least a **minimum level of deterrence** is applied by the international community in order to avoid the perception that certain types of crimes “pay”, even if the offenders are convicted. In other words, the sanctions must clearly outweigh the benefits of the crime.<sup>28</sup>

However, it is equally important to mention that article 11 embodies a partial aspect of the fundamental right to a fair trial,<sup>29</sup> namely the right to a defence counsel. Finally, article 11 of the Convention requires that States Parties ensure that any discretionary powers they may have are exercised to maximize the effectiveness of law enforcement and deterrence and that States Parties establish, where appropriate, long domestic statute of limitation periods.

Another important article in the Convention concerning procedural law is **article 15 – jurisdiction over offences**. Criminals often try to evade jurisdiction, by moving between States. The main purpose of this article is that no crime, under no circumstance, shall remain unpunished and that all parts of a crime are punished wherever they took place.<sup>30</sup>

Article 15 requires that States assert jurisdiction on the basis of the territorial principle: “States shall establish jurisdiction when the offences are committed in their territory or on board of an aircraft or vessel registered under their laws.” It may occur, however, that the alleged offender is not present (anymore) in the State Party where the offence was committed and the State Party in whose territory the alleged offender was found does not

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<sup>28</sup>Ibid., paras. 304–310.

<sup>29</sup>See article 11 of the [Universal Declaration of Human Rights](#) and article 6 of the [European Convention on Human Rights](#).

<sup>30</sup>*Legislative Guide to the UNTOC*, para. 244.



extradite such person solely on the grounds that he or she is one of its nationals. In this case, article 16 (10) obliges States Parties to submit a case to its authorities for the purpose of prosecution, if the alleged offender is in their territory and will not be extradited solely on the grounds of nationality.

### International cooperation

As stated in article 1 of the Convention, its main purpose is to **promote cooperation** to prevent and combat transnational organized crime more effectively. The Organized Crime Convention contains a range of measures to enable and facilitate international cooperation between States Parties, including:

- extradition (article 16)
- mutual legal assistance (article 18)
- joint investigations (article 19)
- law enforcement cooperation (article 27)
- transfer of sentenced persons (article 17)
- transfer of criminal proceedings (article 21)

A key mode of international cooperation in relation to transnational organized crime is extradition. **Extradition** is the formal process whereby one jurisdiction asks another for the enforced return of a person who is in the requested jurisdiction and who is accused or convicted of one or more criminal offences against the law of the requesting jurisdiction.<sup>31</sup> Very importantly, since no country has an extradition treaty with *every* country of the world, the UNTOC provides a legal basis, under article 16 (4), for extradition in case a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty.

A condition for extradition under the UNTOC is that the criminal offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party (article 16 (1)), namely, that the dual criminality (or double criminality) principle is met.

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<sup>31</sup> *Manual on Mutual Legal Assistance and Extradition*, para. 90. United Nations, 2012.

In recognition of the principle *aut dedere aut judicare* (extradite or prosecute), article 16 also states that a State Party that denies an extradition request on the ground that the alleged offender is its national shall submit the case for domestic prosecution. In doing so, it shall ensure that the decision to prosecute and any subsequent proceedings are conducted with the same diligence as a serious domestic offence and shall cooperate with the requesting State Party to ensure the efficiency of the prosecution.<sup>32</sup>

*United States of America vs. Joaquín Archivaldo Guzmán Loera*

The whole process of extradition, starting from the first negotiation between the requesting and requested States to the actual surrender of the requested individual, can be quite lengthy and complex. Extradition negotiations between countries can often last for years and can become a political issue, which may hamper the ultimate objective of carrying out proper judicial proceedings against an alleged offender.

One famous case of difficult extradition proceedings is that of Joaquín Archivaldo Guzmán Loera, also known as “El Chapo”, who was the leader of a powerful cartel in Mexico since 1994. Guzmán was captured for the first time in Guatemala on 9 June 1993 and extradited to Mexico, where he faced 20 years and 9 months in prison on charges of drug trafficking, criminal association, murder and bribery.

Due to the transnational nature of the offences, Guzmán was not only indicted by Mexican courts but also by several United States courts. Guzmán’s cartel laundered the proceeds of its drug trafficking through United States-based insurance companies, reloadable debit cards, numerous shell companies, including a juice company and a fish flour company, and through the smuggling of cash in bulk from the United States to Mexico.

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<sup>32</sup>*Legislative Guide to the UNTOC*, para. 481.

To avoid apprehension, Guzmán's cartel used corrupt officials in Mexico to facilitate the safe transport of drugs and to protect his co-offenders from arrest and prosecution. Additionally, Guzmán's cartel systematically intimidated potential witnesses wishing to testify against him as well as former cartel members wanting to betray him.

All these elements significantly complicated the task for law enforcement to bring him to justice. After his arrest in 1993, he continued to run his enterprise from the Mexican prison in which he was held. However, as soon as he learned about his extradition to the United States in 2001, he escaped a first time, supposedly in a laundry cart. As he gained more power over the years, the manhunt for his capture intensified and several raids were conducted in 2014 by Mexican law enforcement services and military. He was eventually captured in February 2014, but managed to escape a second time in July 2015. His final arrest took place in January 2016 and he was extradited to the United States a year later, in January 2017. More information on this case, including relevant court files can be found in the [SHERLOC Case Law Database](#).

**Mutual legal assistance**, dealt with under article 18 of the Convention, also plays a key role in international cooperation. Mutual assistance in criminal matters is a process by which States, most importantly, seek and provide assistance in gathering evidence for use in criminal cases; execute searches, seizures and freezes; effect service of judicial documents; provide information, evidentiary items and expert evaluations and examine objects and sites.<sup>33</sup> Authorities may need the help of other States concerning the investigation, prosecution or punishment of criminals who have allegedly committed crimes of transnational character. Article 18 states that States Parties must afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention.

Article 18 paragraphs 6 and 7 provide information on how to proceed when mutual legal assistance treaties are already in place. Generally, the

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<sup>33</sup> *Manual on Mutual Legal Assistance and Extradition*, para. 179.

mutual legal assistance provisions of the Convention shall not affect any obligations arising from pre-existing or future mutual legal assistance treaties. Furthermore, article 18 paragraph 7 states that, if States Parties are not bound by a treaty, then paragraphs 9–29 (which cover all facets of a mutual legal assistance request) apply. If the States Parties are bound by a treaty, then the provisions of the treaty apply, unless the States Parties agree to apply paragraphs 9–29. States Parties are urged to apply those paragraphs if they contribute to more effective mutual legal assistance.<sup>34</sup>

The Convention allows States to refuse mutual legal assistance under certain conditions (article 18 (21)). However, the article makes clear that assistance cannot be refused on the grounds of bank secrecy (article 18 (8)) or for offences considered to involve fiscal matters (article 18 (22)). Article 18 (3) states the purposes for which mutual legal assistance may be requested. Most importantly those are: taking evidence or statements from persons; effecting service of judicial documents; executing searches, seizures and freezing; examining objects and sites, among others.

The Convention includes provisions on a number of other mechanisms to facilitate international cooperation. As stated in article 27 for example, States Parties are required to work closely with one another in terms of **law enforcement** (police-to-police cooperation) or consider the establishment of **joint investigative bodies** (article 19), when necessary. Also, States Parties may consider the **transfer of criminal proceedings** when in the interest of the proper administration of justice (article 21) or the **transfer of a sentenced person** to their territory, in order that they may complete their sentence there (article 17).

## Prevention

The prevention of organized crime is also an aim of the Convention. Article 31 (2) of the Convention describes several preventative measures, among others the strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry. For that purpose, States shall, inter alia, endeavour to promote the reintegration into society of persons convicted of offences, evaluate regularly existing legal instruments and administrative practices, and promote public awareness regarding transnational organized crime.

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<sup>34</sup>Ibid., para. 66.

Additionally, article 28 requires States Parties to consider implementing various strategies relating to the collection, analysis, and exchange of information on transnational organized crime. Article 29 encourages States Parties to integrate or improve specific training programmes for its law enforcement personnel with the aim of prevention, detection and control of the offences covered by the Convention.



# Historical timeline of the development of the UNTOC

## Historical timeline of the development of the UNTOC

In order to better appreciate the efforts and significance of the Organized Crime Convention, it is necessary to keep in mind different developmental stages through which both the idea of a convention and its actual drafting went.

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### 1975

The first discussion of the phenomenon of organized crime in a United Nations forum dates back to 1975. It was addressed under “Changes in forms and dimensions of criminality—transnational



and national” during the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva (1–12 September).<sup>35</sup>

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<sup>35</sup> *Travaux Préparatoires*, page ix, para. 2.



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### 1985

Subsequently, in 1985, the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders was held in Milan, Italy (26 August–6 September), and the need for an international response to counter the escalating activities of organized crime was asserted. It adopted the Milan Plan of Action, in which it identified the need to launch a major effort to control and eventually eradicate the destructive phenomena of illicit drug traffic and abuse and of organized crime. In addition, the Congress foresaw a significant role for the United Nations in facilitating the exchange of information and experiences between Member States with a view to improving criminal justice systems and enhancing their responsiveness to the new dimension of crime and criminality.<sup>36</sup>

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### 1990

The opening of borders around this year facilitated international trade and advances in information technology. Parallel to opportunities for growth of licit economies, these developments prompted organized criminal groups to leverage global markets by expanding and diversifying their operations.<sup>37</sup>

The General Assembly, on 14 December 1990, expressed its concern about the rise in transnational crime, within the framework of the restructuring of the United Nations Crime Prevention and Criminal Justice Programme.<sup>38</sup>

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### 1992

The first session of the Commission on Crime Prevention and Criminal Justice took place in April 1992. On 16 December, the General Assembly adopted a resolution on “International Cooperation in combating organized crime”, in which it called for concerted efforts against national and transnational crime.<sup>39</sup>

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<sup>36</sup>Ibid., pp. x–xi., paras. 5–6.

<sup>37</sup>The Globalization of Crime: A Transnational Organized Crime Threat Assessment, p. ii., paras. 1–2. United Nations Office on Drugs and Crime, 2010.

<sup>38</sup>See “Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme”, A/RES/46/152, para. 1.

<sup>39</sup>See “International Cooperation in combating organized crime”, A/RES/47/87, para. 13.

### 1994

In 1994, on the request of the Commission on Crime Prevention and Criminal Justice, and in the wake of the recent assassination of Judge Giovanni Falcone, an Italian magistrate who was actively advocating for the adoption of international tools to more effectively combat organized crime at the international level, a World Ministerial Conference on Organized Transnational Crime was convened in Naples, Italy, from 21 to 23 November. It attracted the highest number of participating States and the highest level of representation of any crime prevention and criminal justice conference of the United Nations.<sup>40</sup>

The Naples Conference produced a Political Declaration and a Global Action Plan which included an initial mandate for the Crime Commission to start exploring the views of Governments on the impact of a convention or conventions against organized transnational crime (as it was called at the time) and on which issues could be included.<sup>41</sup> The Conference agreed that States should consider the further development of international instruments that would promote closer alignment of national legislation with regard to the criminalization of organized transnational crime.<sup>42</sup>

Two main issues were on the table: the first related to the progressive internationalization of crime and the need to equip police and judicial authorities with effective international tools to overcome their operational boundaries. The second was about raising awareness of the progressive organization of crime and the need for uniform criminalization of organized criminal groups across jurisdictions. The latter approach reflected the experiences of countries such as the United States and Italy, which had already passed specific legislation targeting organized criminal groups.<sup>43</sup>

<sup>40</sup> *Travaux Préparatoires*, p. xiv–xv., paras. 2 and 5.

<sup>41</sup> Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, sect. I.A.). Section E para 34, p. 13.

<sup>42</sup> *Report of the World Ministerial Conference on Organized Transnational Crime, Naples, 21–23 November 1994* (A/49/748).

<sup>43</sup> In 1970 and 1982 respectively. See Michelini, Gualtiero. *The Palermo Convention/2. The role of Italy in the drafting of the final text*. Cross Vol.5 N°2 (2019), p. 24.

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### 1995

The need for international cooperation in the fight against organized transnational crime was reiterated<sup>44</sup> in various United Nations forums, including the United Nations Congress in Cairo (April) which invited the Crime Commission to give priority to initiating the process called for by the Naples Political Declaration and Global Action Plan,<sup>45</sup> as well as a specific follow-up meeting to the Naples Conference, which took place in Buenos Aires in October.<sup>46</sup>

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### 1996

On 1 October, the Government of Poland submitted a draft text for a convention<sup>47</sup> to the General Assembly.

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### 1997

While there was some uncertainty on the scope and content of the convention to be negotiated – for example as to whether it should be one convention or more than one, and whether a definition of transnational organized crime, or a list of specific types of organized crimes should be included – in a move that lent great political impetus to the development of the convention, the General Assembly adopted the United Nations Declaration on Crime and Public Security in January 1997.<sup>48</sup> Member States undertook to tackle transnational crime using effective national measures and to promote global law enforcement assistance – two pillars that would later be featured in the UNTOC.<sup>49</sup> This was a demonstration of the strong commitment among Member States towards cooperation in the fight against organized transnational crime.

Consultations took place in a variety of venues, including an informal meeting held by the Crime Prevention and Criminal Justice

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<sup>44</sup> *Travaux Préparatoires*, pp. xvi–xix.

<sup>45</sup> *Ibid.*, p. xvi., para. 3.

<sup>46</sup> *Ibid.*, p. xvii., para. 2.

<sup>47</sup> United Nations, General Assembly, *Question of the Elaboration of an International Convention Against Organized Transnational Crime: Letter Dated 24 September 1996 from the Minister for Foreign Affairs of the Republic of Poland Addressed to the Secretary-General*, *A/C.3/51/7*

<sup>48</sup> United Nations, “United Nations Declaration on Crime and Public Security”, *A/RES/51/60*, p. 2, paras. 3–4.

<sup>49</sup> *Ibid.*

Division of the Secretariat and the Fondazione Giovanni e Francesca Falcone in April.<sup>50</sup> Further, two working groups were established in 1997 to advance relevant work: in April, an in-session working group was established in accordance with ECOSOC resolution 1996/27 by the Commission on Crime Prevention and Criminal Justice at its sixth session for the purpose of considering the possibility of elaborating a convention or conventions against organized transnational crime and identifying elements that could be included therein. The Working Group recognized that it was desirable to develop a convention that would be as comprehensive as possible.<sup>51</sup> In December, by its resolution 52/85 the General Assembly established an open-ended working group for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime. The Working Group decided that the best plan of action was to seek common ground, utilizing as many previous contributions as possible and building on the positive experience and valuable work done in other forums. There was also agreement on the evolving nature of organized transnational crime and the consequent need for an expeditious arrival at a comprehensive convention.<sup>52</sup>

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## 1998

A meeting of the aforementioned Working Group for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime took place in Warsaw on 2–6 February, and the Group submitted its report to the Commission on Crime Prevention and Criminal Justice.<sup>53</sup> In April, at its seventh session, the Crime Commission established an in-session working group on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime. The Working Group discussed the draft text of the convention, and examined the options compiled in the report of the Warsaw meeting. Some Member States identified individual issues that they thought merited attention at the international normative level.

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<sup>50</sup>Ibid., p. xx., paras. 1–2.

<sup>51</sup>Economic and Social Council, *Follow-up to the Naples Political Declaration and Global Action Plan Against Organized Transnational Crime*, annex IV., p. 54., para. 11.

<sup>52</sup>*Travaux Préparatoires*, p. xx–xxi., paras. 4–10.

<sup>53</sup>E/CN.15/1998/5 – *Report of the meeting of the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime* (Warsaw, 2–6 February 1998).

In that context, Argentina proposed the drafting of a new convention against trafficking in minors; Austria presented the draft of an international convention against the smuggling of illegal migrants; Italy presented a draft protocol aimed at combating the trafficking and transport of migrants by sea, to be attached to the draft convention proposed by Austria; and Japan and Canada proposed<sup>54</sup> a new instrument on the subject of firearms.<sup>55</sup> As a result, the Crime Commission, at its seventh session, passed a resolution – subsequently adopted by ECOSOC – in which it decided “to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea”.<sup>56</sup> It therefore provided an initial outline for the content of the convention and stressed the urge to conclude the work by the year 2000.<sup>57</sup>

The establishment of the ad hoc committee, open to all states, was also endorsed by the General Assembly on 9 December,<sup>58</sup> via the adoption of its resolution [53/111](#).

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## 1999

The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime held its first six sessions.<sup>59</sup>

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<sup>54</sup>Following the publishing of the United Nations International Study on Firearm Regulation (Sales No. E.98.IV.2).

<sup>55</sup>*Travaux Préparatoires*, p. xxiv.

<sup>56</sup>ECOSOC Resolution 1998/14 ‘Transnational organized crime’ of 28 July 1998, paragraph 10.

<sup>57</sup>*Commission on Crime Prevention and Criminal Justice: Report on the Seventh Session, 21–30 April 1998, E/CN.15/1998/11*, para. 60, p. 56.

<sup>58</sup>A/RES/51/60. See also *Travaux Préparatoires*, p. xxiii., paras. 1–3.

<sup>59</sup>See “United Nations Convention against Transnational Organized Crime: Procedural History”, para. 25.

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### 2000

Five further sessions of the ad hoc committee took place in 2000, generating a full draft of the convention and of two out of three supplementary protocols.<sup>60</sup> **The draft was approved by the General Assembly via resolution 55/25 of 15 November 2000.** The Convention and the Protocols required forty ratifications to enter into force. The Convention opened for signature by Member States at a High-level Political Conference convened for that purpose, which took place in Palermo, Italy from 12 to 15 December 2000.<sup>61</sup>

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### 2001

An additional (twelfth) session of the ad hoc committee to finalize the Protocol on Firearms took place in February and March.

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### 2003

On 29 September, pursuant to article 38, the Convention entered into force and on 25 December, pursuant to its article 17, the Protocol against Trafficking in Persons also entered into force.

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### 2004

On 28 January, pursuant to its article 22, the Protocol against the smuggling of migrants entered into force. In February, the ad hoc committee held its thirteenth and final session, in which it elaborated draft rules of procedure for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime.<sup>62</sup> The first session of the Conference of the Parties took place from 28 June to 8 July. In its decision 1/1, it adopted the [rules of procedure](#) recommended by the Ad Hoc Committee.

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<sup>60</sup>Ibid.

<sup>61</sup>See “United Nations Convention against Transnational Organized Crime: Procedural History”, para. 25.

<sup>62</sup>Ibid.

### 2005

On 3 July 2005, pursuant to its article 18, the Firearms Protocol entered into force.



### UNTOC and civil society

The signing ceremony in Palermo, Italy (December 2000) was highly symbolic of the tribute paid by civil society in that region, both as regards the high number of people killed and the harmful impact of organized crime on social and economic development. [1] It is therefore expected for civil society to play an important role in supporting states in the implementation of the Convention and the Protocols and in monitoring its impact. [2]

Cooperation with civil society is foreseen by the Convention in article 32 (3) (c) on Cooperating with relevant international and regional organizations and non-governmental organizations. The participation of NGOs in the sessions of the Conference of the Parties is regulated by Rule 17 of the Rules of Procedure, which establishes the possibility for NGOs both with and without consultative status with the Economic and Social Council to apply to the bureau for observer status. NGOs who will be admitted to participate will be able to attend plenary meetings and receive the documents of the Conference. Upon the invitation of the President and subject to the

approval of the Conference, they may also make oral statements on matters related to their activities. It is also a well-established practice for NGOs to partner with States and international organizations in organizing side events in margins of the sessions of the Conference of the Parties. Participation of civil society is supported by the Secretariat via the Civil Society Team of UNODC, which facilitates cooperation between non-governmental stakeholders, the UNODC headquarters and field offices, and Member States. (3)

Many civil society organizations, including NGOs and academic institutions, regularly apply for participation as observers in the meetings of the Conference of the Parties. For example, the ninth session in 2018 was attended by 34 non-governmental organizations (4) and saw the organization of 41 side events. (5)

In order to strengthen engagement with non-governmental organizations, academia, the private sector and other stakeholders in the implementation of the UNTOC and its review mechanism, UNODC has developed an Online Training on “Stakeholder Engagement for the Implementation of the UNTOC”, based on the recently launched “Toolkit on Stakeholder Engagement for the Implementation of UNTOC”.

(1) See Michelini, Gualtiero. *The Palermo Convention/2. The role of Italy in the drafting of the final text*. Cross Vol.5 N°2 (2019), p. 29 – DOI: <http://dx.doi.org/10.13130/cross-11986>

(2) See for example Dandurand, Yvon, and Jessica Jahn, ‘The Role of Civil Society in Monitoring the Impact of the United Nations Convention of Transnational Organized Crime’, ICCLR, 2020. Available at <https://icclr.org/2020/06/20/the-role-of-civil-society-in-monitoring-the-impact-of-the-united-nations-convention-of-transnational-organized-crime/>

(3) See UNODC Engagement with Civil Society on Drugs and Crime

(4) List of Participants to COP 9, CTOC/COP/2018/INF/Rev.2, pp. 38–42.

(5) See the Programme of the Ninth Session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, 15–19 October 2018, Vienna.



# The Conference of the Parties

## The Conference of the Parties

As per article 32 (1) 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.

Article 32 (3) of the UNTOC states that the Conference shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

- Facilitating activities of States Parties for training and technical assistance, implementation of the Convention, and prevention, including by encouraging the mobilization of voluntary contributions
- Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it
- Cooperating with relevant international and regional organizations, and non-governmental organizations
- Reviewing periodically the implementation of the Convention
- Making recommendations to improve the Convention and its implementation

The COP has been in session since its first meeting in 2004 and holds regular sessions every two years, although its work carries on year-round through its extended [Bureau](#) and with the support of the Secretariat. [The Rules of Procedure](#) offer detailed guidance on the conduct of its work.

To date, the Conference has held nine sessions, all in Vienna:

Conference session	Presidents of the Conference
<b>First session</b> (28 June–09 July 2004)	Victor G. Garcia III (Philippines)
<b>Second session</b> (10–21 October 2005)	Peter Poptchev (Bulgaria)
<b>Third session</b> (09–18 October 2006)	Eugenio Curia (Argentina)
<b>Fourth session</b> (08–17 October 2008)	Elizabeth Verville (United States of America)
<b>Fifth session</b> (18–22 October 2010)	Amina C. Mohamed (Kenya)
<b>Sixth session</b> (15–19 October 2012)	Rachmat Budiman (Indonesia)
<b>Seventh session</b> (6–10 October 2014)	Cristian Istrate (Romania)
<b>Eighth session</b> (17–21 October 2016)	Pilar Saborio de Rocafort (Costa Rica) and Maria Assunta Accili Sabbatini (Italy)
<b>Ninth session</b> (15–19 October 2018)	Senén Florensa Palau (Spain) (former) and Alessandro Cortese (Italy) (current)

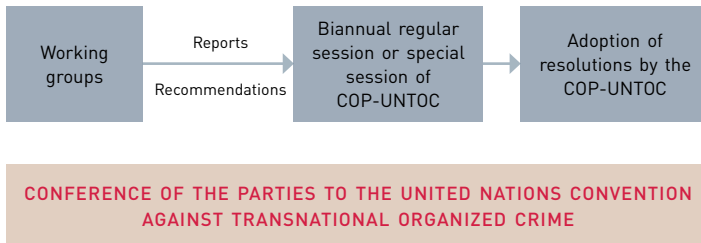
The **tenth** session of the Conference is scheduled for 12–16 October 2020 and will be chaired by the African Group.

## Working Groups

In order to focus on specific areas relating to the Organized Crime Convention or its Protocols, the COP established five permanent **working groups**, namely:

- The Working Group on **Trafficking in Persons**, to advise and assist the COP in the implementation of its mandate with regard to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- The Working Group on the **Smuggling of Migrants**, to advise and assist the COP in the implementation of its mandate with regard to the Smuggling of Migrants Protocol
- The Working Group on **Firearms**, to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition
- The Working Group on **International Cooperation**, to hold substantive discussions on practical issues pertaining to extradition, mutual legal assistance and international cooperation for the purpose of confiscation
- The Working Group of **Government Experts on Technical Assistance**, to advise and assist the Conference in the implementation of its mandate on technical assistance

Figure 1. Structure of the Conference of the Parties to the Organized Crime Convention



In its [resolution 7/1](#), the COP decided that the Working Group on Trafficking in Persons, the Working Group on the Smuggling of Migrants and the Working Group on Firearms will be constant elements of the Conference of the Parties, forwarding their reports and recommendations to the Conference.

In its [decision 3/2](#), the Conference also decided that the open-ended Working Group on International Cooperation will be a constant element of the Conference of the Parties.

The Conference has also encouraged the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance to consider meeting on an annual basis, as needed, and to hold their meetings consecutively, in order to ensure the effective use of resources.

### Knowledge management and the UNTOC

Knowledge management in regard to countering organized crime plays a vital role in the implementation of article 32 of the Convention, under which States Parties should provide the Conference with information on their programmes, plans and practices, as well as legislative and administrative measures to implement the Convention.

The UNODC SHERLOC knowledge management portal, managed under GLOT60, gathers and disseminates such information through databases of legislation, case law, strategies, treaties and bibliographic data. SHERLOC is unique in its comprehensiveness: accessible in all official United Nations languages, the portal deals with 15 types of criminal activities and contains information on all 193 United Nations Member States, as well as 4 non-Member States. Each of SHERLOC's databases is searchable by keywords and can be filtered according to country, crime types and relevant "cross-cutting issues" concerning investigations, international cooperation and other matters related to 34 different articles of UNTOC.

Furthermore, SHERLOC is an important tool for analysing linkages between different types of criminal activities. Users can choose any combination of 15 crime types – such as cybercrime, trafficking in persons or terrorism – and navigate through a tailored set of resources concerning linkages between these criminal activities.

SHERLOC has many facets: it is a practitioner's tool for investigators, prosecutors and judges; an information tool for policymakers and academia; and an awareness-raising tool for the public and media. Thanks to its solid resource base, the portal can also be successfully streamlined into technical assistance activities – as evidenced by the pilot workshop organized by the SHERLOC Team in cooperation with the UNODC Country Office in Pakistan.

The SHERLOC knowledge management portal can be accessed at [sherloc.unodc.org](http://sherloc.unodc.org). All databases of the Portal (except for the Directory of Competent National Authorities) can be accessed without registration.

## The Review Mechanism

As stated in article 32 (3), the Conference shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article by, among other mechanisms, reviewing periodically the implementation of the Convention (article 32 (3) (d)).

After a decade of negotiations among States Parties, the Conference established the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto – the Review Mechanism – in 2018, through [resolution 9/1](#).

The Review Mechanism is a **peer review process** that assists States Parties to effectively implement the Convention and the Protocols thereto, thus contributing to the effective prevention of and combat against transnational organized crime. Under the peer review process, two States Parties review one other State Party for each instrument that the State under review is a party to. In order to determine the reviewing States (one from the same regional group as the State under review and one from a different regional group) a joint intersessional meeting of the working groups will draw lots at the beginning of the review process. By the end of the process, each State must have undergone its own review and performed a minimum of one review and a maximum of three reviews.



Photo ©Nikoleta Haifar

The review process is a two-track process, composed of a general review that will be undertaken in the plenary of the Conference of the Parties, and of country reviews that will be conducted through desk reviews.

As stated in the annex of resolution 9/1, the purpose of the review process is, *inter alia*, to assist the Conference to:

(a) Promote the purposes of the Convention and the Protocols thereto, as set out in article 1 of the Convention and article 2 of each of the Protocols;

(b) Improve the capacity of States Parties to prevent and combat transnational organized crime and to promote and review the implementation of the Convention and the Protocols thereto;

(c) Help States Parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance upon their request;

(d) Gather information on national legislation, successes, good practices and challenges of States Parties in implementing and using the Convention and the Protocols thereto, and to promote and facilitate the exchange of this information;

(e) Promote international cooperation as stipulated in the Convention and the Protocols thereto;

(f) Acquire the necessary knowledge of the measures taken by States Parties in implementing the Convention and the difficulties encountered by them in doing so through information provided through the gathering process described in section V.C of the present procedures and rules.

### *Conduct of the review process*

First, all States Parties to UNTOC will be divided into three groups and will start their review staggered over three consecutive years.

All articles of the Organized Crime Convention and its Protocols have been divided into four clusters, dedicated to a specific theme of the Organized Crime Convention. The substantive review process for the four instruments has also been divided accordingly into four phases of two years each.

As illustrated in figure II, the Review Mechanism is comprised of a preparatory phase lasting two years (ending in 2020) and a substantive review process lasting eight years for each State under review.



Figure II. Phases and clusters of the review process

YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10	YEAR 11	YEAR 12
Preparatory phase		1st cluster for the 1st third of States		2nd cluster for the 1st third of States		3rd cluster for the 1st third of States		4th cluster for the 1st third of States			
Preparatory phase		1st cluster for the 2nd third of States		2nd cluster for the 2nd third of States		3rd cluster for the 2nd third of States		4th cluster for the 2nd third of States			
Preparatory phase		1st cluster for the final third of States		2nd cluster for the final third of States		3rd cluster for the final third of States		4th cluster for the final third of States			

During the preparatory phase, States Parties finalized and harmonized the self-assessment questionnaires, the guidelines for conducting country reviews and the blueprint for the list of observations and its summary. The responses to the questionnaire are the basis for the peer review and will be uploaded to a dedicated secure portal named “RevMod”, under total confidentiality of the data provided. In addition, a secure written communications platform on RevMod, this module will enable communication between the State under review and the reviewing States.

During the review, the States Parties under review will provide, within six months, the responses to the self-assessment questionnaires, which will be reviewed by the reviewing States, with the active involvement of the State Party under review. Within a timeframe not exceeding six months, the reviewing States will give the reviewed State their feedback. The feedback may also include request for further clarification or additional questions.

At the final stage of the country review process, each reviewing State, in close cooperation with the State under review and with the assistance of the Secretariat, will prepare a list of observations indicating any gaps and challenges in the implementation of the provisions under reviews, best practices, suggestions and any technical assistance needs. The list will be based on the information provided by the State under review in the self-assessment questionnaires and the subsequent dialogue between the States. A short summary of the list will be translated into all six official

United Nations languages and made available for the Conference and its working groups.

The working groups of the Conference will draw upon the lists of observations in preparing their sessions, and take them into account when proposing generally applicable recommendations to the Conference.

Figure III. Overview of the country review process



More detailed information on the procedure of the Review Mechanism can be found in the annex of [resolution 9/1](#), under chapter V. “Review process”.

The role of UNODC  
in assisting States  
Parties to implement  
the UNTOC

## What is UNODC?

In 1997, the functions of the International Drug Control Programme (UNDCP) and the Centre for International Crime Prevention (CICP) were consolidated to form the United Nations Office for Drug Control and Crime Prevention (UNODCCP). Thereafter, the Office was reorganized and took up its current name of United Nations Office on Drugs and Crime (UNODC).<sup>63</sup>

The Secretary-General established UNODC to address the interrelated issues of drug control, crime prevention and international terrorism in the context of sustainable development and human security.<sup>64</sup> Because the scale of these problems is often too great for States to confront alone, UNODC offers practical assistance to Member States and encourages concerted action to tackle transnational threats.<sup>65</sup> The work of the Office is grounded in a series of international instruments for which it acts as guardian and advocate.<sup>66</sup>

With its headquarters in Vienna, UNODC operates in more than 80 countries around the world through its network of 115 [Field Offices](#), with 2,400 UNODC personnel globally.<sup>67</sup> The Office is guided by mandates emanating from its [governing bodies](#) and other treaty bodies, and seeks to respond to the needs of Member States.<sup>68</sup>

The normative work of UNODC is based around [five normative areas of activity](#), namely assisting States to prevent and counter transnational organized crime, corruption and terrorism, to strengthen crime prevention and criminal justice systems, and to comprehensively address the world drug problem.

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<sup>63</sup>United Nations Office on Drugs and Crime, “#UN70: Seven Decades of the United Nations”, paras. 11–12.

<sup>64</sup>See “*Secretary-General’s bulletin: Organization of the United Nations Office on Drugs and Crime*”, ST/SGB/2004/6, sect. II, para. 1.

<sup>65</sup>United Nations Office on Drugs and Crime, “[About the United Nations Office on Drugs and Crime](#)”, para. 2.

<sup>66</sup>United Nations Office on Drugs and Crime, “[The Sustainable Development Goals: Steering the United Nations towards 2030](#)”, para. 6.

<sup>67</sup>United Nations Office on Drugs and Crime, “[UNODC Field Offices](#)”, para. 1.

<sup>68</sup>United Nations Office on Drugs and Crime, “[Menu of Services: Technical Assistance provided by UNODC](#)”, p. iv, para. 1, 2008.

The vision of UNODC is to make the world safer from crime, drugs and terrorism. As an entity whose mandate spans three pillars of the United Nations – peace and security, sustainable development and human rights – the Office is mandated to assist Member States in their fight against crime in all its dimensions, in countering the world drug problem and in preventing international terrorism.

With the mandate to make the world safer from drugs and crime, UNODC is committed to supporting Member States in the implementation of the 2030 Agenda for Sustainable Development, which draws together various elements into a comprehensive and forward-looking framework and explicitly recognizes the interrelationship between sustainable development on the one hand, and the fight against drugs and crime, including corruption and terrorism on the other.

UNODC also has a dedicated Global Programme on Gender Equality and the Empowerment of Women, which aims to support the [mainstreaming of gender equality](#) into normative, operational and research work of UNODC and the pursuance of gender parity in the United Nations Office at Vienna and among UNODC staff at all levels. One of the key outputs of the Global Programme was development of the [UNOV/UNODC Strategy for Gender Equality and the Empowerment of Women \(2018–2021\)](#).

### UNODC and the UNTOC

UNODC, as the guardian of the implementation of the Organized Crime Convention and the Protocols thereto, assists States Parties in their efforts to implement those legal instruments. UNODC also functions as the Secretariat of the Conference of the Parties to UNTOC.

Within UNODC, the [Organized Crime and Illicit Trafficking Branch \(OCB\)](#) is in charge of supporting States in the normative and operational implementation of the UNTOC and its Protocols, as well as of assisting States that have not yet adhered to those instruments to do so. OCB also manages a number of Global Programmes which seek to support States in implementing the UNTOC through tailor-made technical assistance and capacity-building activities. The activities at headquarters are complemented on the ground by a series of Regional and Country Programmes that UNODC implements through its wide network of Field Offices.

### CRIMJUST Global Programme

The CRIMJUST Global Programme assists Member States in Latin America, the Caribbean, West Africa and Europe to implement several initiatives designed to foster international criminal justice cooperation in line with the Convention against Transnational Organized Crime (UNTOC). Given that strengthening cross-border cooperation is central to responding effectively to organized crime, CRIMJUST has been facilitating interregional investigative case forums. These meetings bring together prosecutors and investigators from national law enforcement and prosecutorial institutions in source, transit and destination countries to discuss recent significant drug seizure cases and in turn develop agreed actions to pursue post-seizure transnational investigations.

These cross-border investigative actions can range from proceeds of crime/asset recovery, to expansion of the investigation or the commencement of new investigations. These investigative forums seek to optimize the criminal justice outcomes stemming from such drug seizures and ultimately ensuring that the investigative actions arising from the initial seizure go towards disrupting or dismantling the organized crime group responsible for the production and trafficking of the seized drugs. In addition, recognizing the importance of special investigation techniques as a crucial tool in such transnational drug investigations, CRIMJUST has also been delivering training on cross-border controlled deliveries. As well as providing technical guidance on this special investigative technique, this training seeks to strengthen communication and cooperation between the relevant authorities along drug trafficking routes, thereby complementing the interregional investigative forums.

Additional information on CRIMJUST can be found at:

[www.unodc.org/unodc/drug-trafficking/crimjust/index.html](http://www.unodc.org/unodc/drug-trafficking/crimjust/index.html)

With its many years of experience acting as the guardian of implementation of the Convention, particularly its provisions on international cooperation, UNODC has firmly established itself as a centre of excellence in this area. The Office supports the work of the Conference of the Parties to the Convention and its Working Group on International Cooperation in addressing issues pertaining to the effective implementation of the

international cooperation provisions of the Convention, including its added value as legal basis for such cooperation.

UNODC also devotes particular attention to the provision of technical assistance to States Parties to the Convention to strengthen knowledge and capacity within central authorities and other relevant institutions and assist in streamlining legislation related to international cooperation in criminal matters.

Other areas of pertinent work of UNODC include supporting regional and sub-regional judicial and law enforcement networks aimed at facilitating cooperation in criminal matters and the effective exchange of information and expertise; building trust and creating contacts among practitioners; and developing, updating and expanding tools for promoting international cooperation in criminal matters, including the SHERLOC portal, the Online Directory of Competent National Authorities and the Mutual Legal Assistance Request Writer Tool.





# Further resources

### Tools and publication on transnational organized crime

[www.unodc.org/unodc/en/organized-crime/tools-and-publications.html](http://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html)

### Tools and publication on firearms

[www.unodc.org/unodc/en/firearms-protocol/publications.html](http://www.unodc.org/unodc/en/firearms-protocol/publications.html)

[www.unodc.org/unodc/en/firearms-protocol/technical-assistance.html](http://www.unodc.org/unodc/en/firearms-protocol/technical-assistance.html)

### Human Trafficking and Migrant Smuggling Publications

[www.unodc.org/unodc/en/human-trafficking/publications.html?ref=menuaside](http://www.unodc.org/unodc/en/human-trafficking/publications.html?ref=menuaside)

### Resources on International Cooperation

[www.unodc.org/unodc/en/international-cooperation/index.html](http://www.unodc.org/unodc/en/international-cooperation/index.html)

Global Programme to Support the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (GLOW97)

Global Programmes on Trafficking in Persons and Smuggling of Migrants

Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants – GLO.ACT (GLOZ67)

Global Programme Against Trafficking – GPAT (GLOT59)

Global Programme Against Smuggling of Migrants (GLOT92)

Global Firearms Programme (GLOX34)

Strengthening the Capacities of Member States to Prevent and Combat Organized and Serious Crimes – GPTOC (GLOT32)

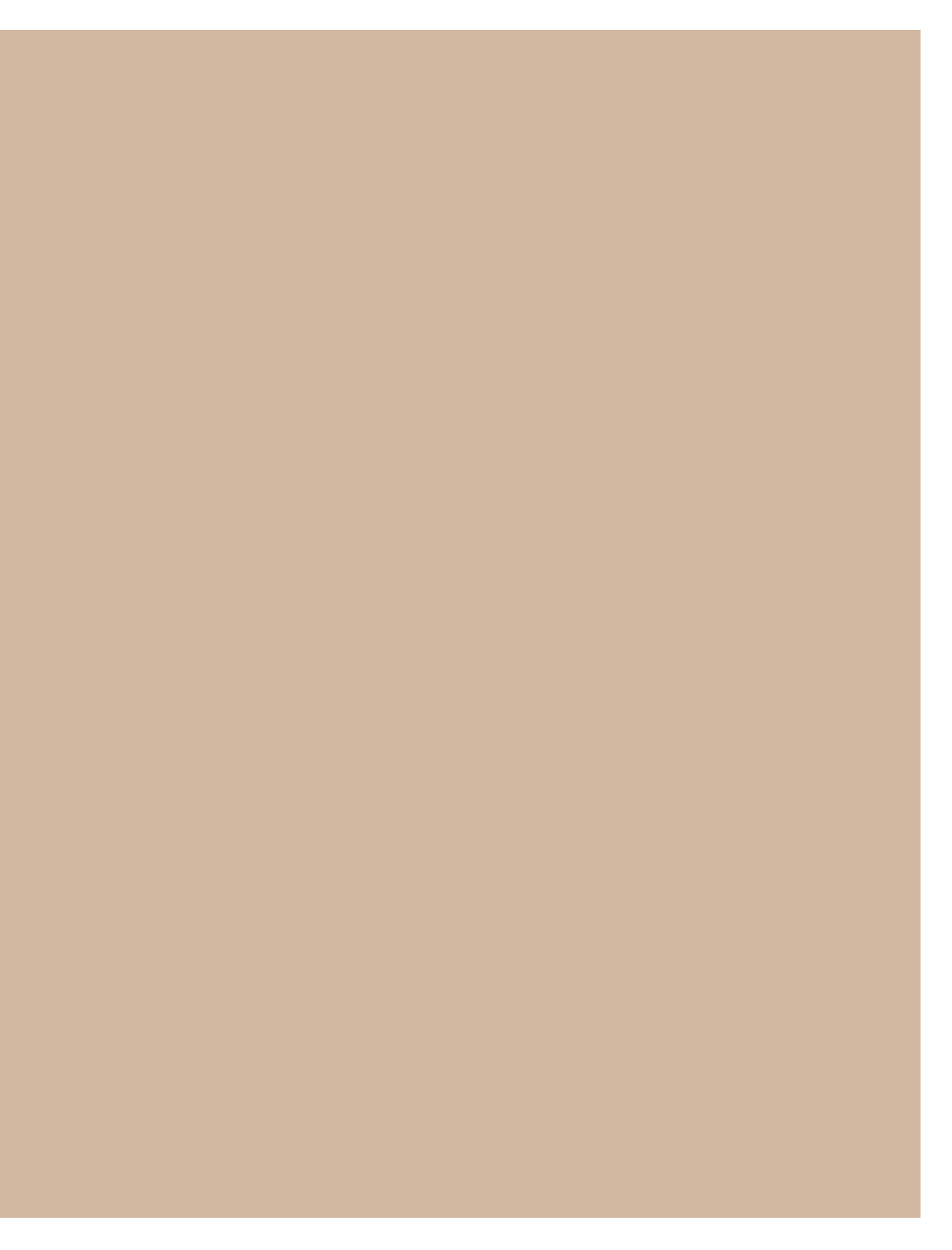
Container Control Programme – CCP (GLOG80)

Global Programme Against Money-Laundering, Proceeds of Crime and the Financing of Terrorism – GPML (GLOU40)

Global Programme on Cybercrime (GLOX76)

A comprehensive study on cybercrime, pursuant to General Assembly resolution 65/230 (GLOX46)

Building Effective Networks Against Transnational Organized Crime (BENATOC) (GLOZ72)





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United Nations Office on Drugs and Crime