



# Security Sector Reform Integrated Technical Guidance Notes

**Transnational Organized Crime and  
Security Sector Reform**





# **Security Sector Reform Integrated Technical Guidance Notes**

**Transnational Organized Crime and  
Security Sector Reform**

This document is not to be sold

© UN 2016 – All rights reserved

Editing by Randy Holden

Design and production by Rick Jones

Cover images © UN Photo (front) and Shutterstock (back)

## PREFACE

---

In his report (A/62/659-S/2008/39) on security sector reform (SSR), the Secretary-General advocated a more comprehensive approach to this important area of United Nations support. Since then, SSR has become a core element in multidimensional peacekeeping and is recognized as an integral part of conflict prevention, sustainable development and peacebuilding more broadly. The Security Council adopted resolution 2151 in 2014, which affirmed that SSR “in post-conflict environments is critical to the consolidation of peace and stability, promoting poverty reduction, rule of law and good governance, extending legitimate State authority, and preventing countries from relapsing into conflict” (S/RES/2151).

The United Nations presented its first volume of SSR Integrated Technical Guidance Notes (ITGNs) in 2012. Produced through a system-wide effort undertaken in the framework of the Inter-Agency SSR Task Force<sup>1</sup> (IASSRTF), the ITGNs provide a body of guidance to United Nations personnel in the field and at Headquarters. The ITGNs also represent a valuable source of information for national actors, and a platform from which to launch joint initiatives with partners, including Member States, multilateral and regional organizations and partners in the private and public sector. The ITGNs are an important part of the United Nations efforts to provide a holistic and coherent approach to SSR.

This ITGN on Transnational Organized Crime (TOC) and SSR is intended to help SSR practitioners mainstream measures to combat TOC into SSR processes and hence assist their efforts to strengthen the rule of law and promote human rights. As with all other guidance materials, the ITGN on TOC and SSR should be tailored to the specific context and updated regularly to reflect the evolving needs and lessons of our work and that of Member States. It is envisaged that our colleagues and partners working in this vital area will find the ITGN a useful tool, and will provide feedback and comments so that our knowledge in this evolving field can be expanded continuously.

The ITGN was developed by the United Nations Inter-Agency SSR Task Force under the leadership of the United Nations Office on Drugs and Crime (UNODC) and through a collaborative effort with a wide range of actors from within the United Nations system and independent experts on SSR and TOC. The IASSRTF would like to thank the numerous staff members from agencies, departments, funds and programmes at headquarters and in field and country operations, who contributed to its development.

## GLOSSARY

Keyword / component	Definition / description
<b>Ceasefire agreement*</b>	A binding, non-aggression pact to enable dialogue between conflicting parties. ( <i>Integrated disarmament, demobilization and reintegration standards (IDDRS)</i> , Inter-Agency Working Group (IAWG) on DDR, 2006, <a href="http://pksoi.army.mil/doctrine_concepts/documents/UN%20Guidelines/IDDRS.pdf">http://pksoi.army.mil/doctrine_concepts/documents/UN%20Guidelines/IDDRS.pdf</a> )
<b>Conflict-Related Sexual Violence (CRSV)*</b>	The United Nations Security Council considers that “sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security”. Sexual violence as a “tactic of war” refers to acts of sexual violence that are linked with military/political objectives and that serve (or intend to serve) a strategic aim related to the conflict. Sexual violence, however, does not need to be explicitly orchestrated for military gain to be considered relevant to the Security Council’s remit. The Council also considers sexual violence conflict-related when it is “committed against civilians”, committed “in and around UN managed refugee and internally displaced persons camps”, or committed during “disarmament, demobilization and reintegration processes”.  <i>(Guidance for Mediators. Addressing Conflict-Related Sexual Violence in Ceasefire and Peace Agreements. DPA, 2012)</i>
<b>Disarmament, Demobilization and Reintegration (DDR)*</b>	A process that contributes to security and stability in a post-conflict recovery context by removing weapons from the hands of combatants, taking the combatants out of military structures and helping them to integrate socially and economically into society by finding civilian livelihoods.  <ul style="list-style-type: none"> <li>■ <b>Disarmament</b> is the collection, documentation, control and disposal of weapons from combatants and often from the civilian population.</li> <li>■ <b>Demobilization</b> is the formal and controlled discharge of active combatants from armed forces and groups, including a phase of “reinsertion” which provides short-term assistance to ex-combatants.</li> <li>■ <b>Reintegration</b> is the process by which ex-combatants acquire civilian status and gain sustainable employment and income.</li> </ul> <i>(Secretary-General, Note to the General Assembly, (A/C.5/59/31))</i>
<b>Discrimination against women*</b>	According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”  <i>(Convention on the Elimination of All Forms of Discrimination against Women, art. 1)</i>



Keyword / component	Definition / description
<b>Gender*</b>	<p>Refers to the social attributes and opportunities associated with being male and female and the relationships between women, girls, men and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and learned through socialization processes. They are context-/time-specific and changeable. Gender determines what is expected, allowed and valued in women, girls, men and boys in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, and decision-making opportunities. Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age.</p> <p><i>(Office of the Special Advisor on Gender Issues and Advancement of Women, Gender Mainstreaming: Strategy for Promoting Gender Equality, rev. August 2001)</i></p>
<b>Gender mainstreaming*</b>	<p>The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally and inequality is not perpetrated. The ultimate goal of gender mainstreaming is to achieve gender equality.</p> <p><i>(Agreed Conclusions of ECOSOC Coordination Segment on Gender Mainstreaming, A/52/3, 1997)</i></p>
<b>Gender responsiveness, gender sensitive policies</b>	<p>A gender responsive approach addresses the specific gender dynamics and social and cultural reference points that prescribe the roles of men and women in any given society. This requires socio-cultural research and analysis to understand what the norms and expectations are for men and women in any given context and how this might affect the programme, so that interventions can be designed accordingly.</p> <p><i>(Ending Violence against Women and Girls Programming Essentials, UNWOMEN January 2012, <a href="http://www.endvawnow.org/uploads/modules/pdf/1328563919.pdf">http://www.endvawnow.org/uploads/modules/pdf/1328563919.pdf</a>)</i></p> <p>Gender sensitive policies and programmes equitably consider the needs and capacities of women, men, girls and boys.</p> <p><i>(ABC of Women Worker's Rights and Gender Equality, ILO, Geneva, 2000)</i></p>
<b>Gender-Based Violence (GBV)</b>	<p>The term gender-based violence is used to distinguish common violence from violence that is directed against individuals or groups of individuals on the basis of their gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. While women, men and boys and girls can be victims of gender-based violence, women and girls are the main victims.</p> <p><i>(Guidelines for Gender-based Violence Interventions in Humanitarian Settings, Inter-Agency Standing Committee Task Force on Gender and Humanitarian Assistance, 2005)</i></p>

Keyword / component	Definition / description
<b>Good offices</b>	<p>'Good offices' refers to official or unofficial mediation between two or more parties or the provision of advice to national counterparts by senior UN representatives.</p> <p><i>(Integrated Technical Guidance Note, Peace Processes and Security Sector Reform (SSR), December 2012)</i></p>
<b>Governance</b>	<p>Governance refers to the structures and processes whereby a social organisation – from a family to corporate business to international institution – steers itself, ranging from centralised control to self-regulation.</p> <p><i>(Bryden, Alan, Heiner Hänggi, Geneva Centre for the Democratic Control of Armed Forces. Security governance in post-conflict peacebuilding. Münster; Piscataway, NJ, 2005)</i></p>
<b>Justice system</b>	<p>The Justice system includes justice ministries; prisons; criminal investigation and prosecution services; the judiciary (courts and tribunals); implementation justice services (bailiffs and ushers), other customary and traditional justice systems; human rights commission and ombudsmen; etc.</p> <p><i>(Maintenance of international peace and security: role of the Security Council in supporting security sector reform; Concept paper prepared for the Security Council open debate (S/2007/72), 9 February 2007)</i></p>
<b>Mediation</b>	<p>Mediation is a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements.</p> <p><i>(SG Report on Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution (A/66/811), United Nations Guidance for Effective Mediation, September 2012, (Annex UN Guidance for Effective Mediation 12 September 2012)</i></p>
<b>National ownership</b>	<p>National ownership (of SSR processes) refers to an inclusive and consultative process, methodology and outcome, predicated on the perspectives, priorities and vision of stakeholders within the society undergoing reform. National ownership of SSR is manifest in relations among national stakeholders, and between national stakeholders and external actors such as bilateral partners, regional organizations, the United Nations and other international organizations</p> <p><i>(Integrated Technical Guidance Note, National Ownership of SSR, December 2012)</i></p>
<b>National security policy</b>	<p>National security policy is defined as a formal description of a country's understanding of its national values, interests, goals, strategic environment and threats in view of protecting or promoting national security for the State and its people, which is anchored in a vision of security determined through a comprehensive process of dialogue with all national stakeholders (and regional and international ones if deemed appropriate by the State concerned). In this sense, it shall incorporate the views and perceptions of the Government and other institutions of State, as well as the needs and perceptions of the country's people.</p> <p><i>(Integrated Technical Guidance Note, United Nations Support to National Security Policy and Strategy-Making Processes, December 2012)</i></p>



Keyword / component	Definition / description
<b>National security strategy</b>	<p>A national security strategy is defined as a formal description of the methods to be used by the State and its people to realize the vision and goals outlined in a national security policy. This includes setting specific objectives, identifying priorities and considering activities and resource allocation. The document is based on the values, interests, threats to and needs of the country, as outlined in a national security policy.</p> <p><i>(Integrated Technical Guidance Note, United Nations Support to National Security Policy and Strategy-Making Processes, December 2012)</i></p>
<b>National security vision</b>	<p>The vision is a statement describing the desired future end state of national security over a specific timeframe, based on national values and national aspirations, interests, and needs. An effective vision should be clear, realistic and in harmony with the needs and values of society at large. The vision guides the development of both the national security policy and national security strategy and sets the direction for all other strategic planning.</p> <p><i>(Integrated Technical Guidance Note, United Nations Support to National Security Policy and Strategy-Making Processes, December 2012)</i></p>
<b>Non-statutory security forces</b>	<p>Non-statutory security forces are armed groups and entities that fall outside the direct purview and control of the state in terms of their financing, command and control, oversight and functioning. The role of non-statutory security forces, which may include private security companies, guerrilla armies and private militia are not covered by national legislation.</p> <p><i>(Ebo, Adedeji. "Non-State Actors, Peacebuilding and Security Governance in West Africa: Beyond Commercialisation." Journal of Peacebuilding &amp; Development 3, no. 2 (2007): 53–69)</i></p>
<b>Parliamentary oversight (of the security sector)</b>	<p>Parliamentary oversight refers to the responsibility, control and accountability of parliament over the security sector. Parliamentary oversight sets limits on executive power by setting legal parameters and adopting a budget. Parliamentary involvement in security policy and security sector reform also ensures that citizens' concerns are being heard and that the new directions and actions of security services are consistent with the constitution, international humanitarian law and human rights law.</p> <p><i>(Parliamentary oversight of the security sector ECOWAS Parliament-DCAF Guide for West African Parliamentarians. Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2011)</i></p>
<b>Peace processes</b>	<p>Peace agreements are formal agreements aimed at ending violent conflict and creating the conditions for durable peace. They include ceasefire agreements, interim or preliminary agreements, comprehensive and framework agreements, and implementation agreements. The way in which the conflict ends, whether by compromise, or a one-sided victory, for example, typically has implications for the nature of the peace.</p> <p><i>(Topic Guide on Conflict, 2012, Governance and Social Development Resource Centre, <a href="http://www.gsdr.org/docs/open/CON69.pdf">http://www.gsdr.org/docs/open/CON69.pdf</a>)</i></p>

Keyword / component	Definition / description
<b>Reproductive health</b>	<p>This falls within the framework of the World Health Organization's (WHO) definition of health as a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity. Reproductive health addresses the reproductive processes, functions and system at all stages of life. The term thus implies that people are able to have a responsible, satisfying and safe sex life, and that they have the capability to reproduce and the freedom to decide if, when and how often to do so.</p> <p>(Reproductive health, WHO, <a href="http://www.who.int/topics/reproductive_health/en/">http://www.who.int/topics/reproductive_health/en/</a>)</p>
<b>Rule of Law*</b>	<p>The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.</p> <p>(Report of the Secretary-General on the <i>Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies</i>, 23 August 2004, (S/2004/616))</p>
<b>Security governance</b>	<p>Security governance refers to the process of steering the state and society, ideally but not always under effective democratic control, towards the realisation of individual and collective freedom from fear.</p> <p>(Ebo, Adedeji. "Non-State Actors, Peacebuilding and Security Governance in West Africa: Beyond Commercialisation." <i>Journal of Peacebuilding &amp; Development</i> 3, no. 2 (2007): 53–69)</p>
<b>Security sector*</b>	<p>Security sector is a broad term often used to describe the structures, institutions and personnel responsible for the management, provision and oversight of security in a country. It is generally accepted that the security sector includes defence, law enforcement, corrections, intelligence services and institutions responsible for border management, customs and civil emergencies. Elements of the judicial sector responsible for the adjudication of cases of alleged criminal conduct and misuse of force are, in many instances, also included. Furthermore, the security sector includes actors that play a role in managing and overseeing the design and implementation of security, such as ministries, legislative bodies and civil society groups. Other non-State actors that could be considered part of the security sector include customary or informal authorities and private security services.</p> <p>(Report of the Secretary-General on <i>Securing peace and development: the role of the United Nations in supporting security sector reform</i>, 23 January 2008, (A/62/659–S/2008/39))</p>

Keyword / component	Definition / description
<b>Security Sector Reform*</b>	<p>Security sector reform (SSR) describes a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law.</p> <p><i>(Report of the Secretary-General, Securing peace and development: the role of the United Nations in supporting security sector reform, 23 January 2008, (A/62/659–S/2008/39))</i></p>
<b>Sexual violence*</b>	<p>Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.</p> <p><i>(World report on violence and health. WHO, 2002 <a href="http://www.who.int/violence_injury_prevention/violence/world_report/en/index.html">http://www.who.int/violence_injury_prevention/violence/world_report/en/index.html</a>)</i></p>
<b>Small Arms and Light Weapons (SALW)*</b>	<p>Small Arms and Light Weapons mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas.</p> <p>a. 'Small arms' are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns;</p> <p>b. 'Light weapons' are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.</p> <p><i>(Report of the Open-ended Working Group to Negotiate an International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (A/60/88))</i></p>
<b>Transitional justice*</b>	<p>The notion of transitional justice comprises the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.</p> <p><i>(Report of the Secretary-General, The rule of law and transitional justice in conflict and post-conflict societies (S/2004/616))</i></p>

\* UN documents

## ABBREVIATIONS

---

AML	Anti-Money Laundering
ASEAN	Association of Southeast Asian Nations
AU	African Union
CARICC	Central Asian Regional Information and Coordination Centre
CCP	Container Control Programme
CITNDP	Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
CoE	Council of Europe
DPKO	Department of Peacekeeping Operations
DPA	Department of Political Affairs
ECOWAS	Economic Community of West African States
FATF	Financial Action Task Force
FIU	Financial Investigation Units
FOB	Forward Operating Base
GCIC	Gulf Criminal Information Centre
HRDDP	Human Rights Due Diligence Policy
IASSRTF	Inter-Agency SSR Task Force
ICCPR	International Convention on Civil and Political Rights
JAITF	Joint Airport Interdiction Task Forces
JPC	Joint Planning Cell
MPS	Macedonia Police Service
MLA	Mutual Legal Assistance
OAS	Organization of American States
OHCHR	Office of the High Commissioner of Human Rights
OPCAT	Optional Protocol to the Convention against Torture
OSCE	Organization for Security and Cooperation in Europe
PEP	Politically Exposed Person
PCU	Port Control Unit
RDU	Rapid Deployment Unit
RILO	Regional Intelligence Liaison Office
SFT	Suspicious Financial Transaction

SPT	Sub-Committee for the Prevention of Torture
SSR	Security Sector Reform
TOC	Transnational Organized Crime
TOCTA	Transnational Organized Crime Threat Assessment
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
UNOWA	United Nations Office for West Africa
UNTOC	United Nations Convention against Transnational Organized Crime
WACI	West African Crime Initiative
WCO	World Custom Organization





## TABLE OF CONTENTS

Preface .....	iii
Glossary .....	vi
Abbreviations .....	x
<b>1. Purpose .....</b>	<b>1</b>
<b>2. Scope .....</b>	<b>1</b>
<b>3. Introduction .....</b>	<b>1</b>
<b>4. The Role of SSR in Countering TOC .....</b>	<b>2</b>
4.1. Defining TOC .....	2
4.2. Acknowledging the Challenges Posed by TOC in Relation to the Security Sector .....	3
<b>5. TOC Measures as a Crucial Element of SSR .....</b>	<b>4</b>
5.1. Core Principles .....	4
5.2. Addressing the International and Regional Dimensions of TOC .....	6
5.3. Integrated Capacity Building .....	8
5.4. Supporting TOC through Legislative Reforms that Impact the Security Sector .....	12
<b>6. Key Areas of SSR to Tackle TOC .....</b>	<b>16</b>
6.1. Formulating a Strategic Analytical Framework .....	16
6.2. Crime Prevention .....	18
6.3. Intelligence .....	21
6.4. Linking Judicial System Reform and SSR to Combat TOC .....	24
6.5. Police Reform .....	26
6.6. Prison Reform .....	29

6.7. Combating Corruption and Money Laundering	31
6.8. Border Management	34
<b>7. Risks and Opportunities</b>	<b>37</b>
<b>Annexes</b>	<b>40</b>
Annex I – Manifestations of TOC	40
Annex II – Summary of UNTOC Conventions and Protocols	42
Annex III – TOC and Peace Operations	43
Annex IV – Core International Human Rights Instruments and TOC	44
Annex V – Tools and Instruments to Counter TOC	45
<b>Endnotes</b>	<b>47</b>
<b>Bibliography</b>	<b>49</b>

## 1. PURPOSE

---

This Integrated Technical Guidance Note (ITGN) is intended to help security sector reform (SSR) practitioners incorporate measures to combat transnational organised crime (TOC) into SSR processes, and thus assist their efforts to strengthen the rule of law and promote human rights. The ITGN complies with the mandates set forth in United Nations resolutions on TOC, and sets the direction for further development of strategic and operational measures. It aims to:

- (a) Deepen understanding of the implications of TOC for SSR processes.
- (b) Ensure that security sector institutions, legislation and policies are responsive to TOC threats.

## 2. SCOPE

---

The ITGN provides a strategic assessment of the threat TOC poses to security, peace and sustainable development. It addresses the importance of adherence to the rule of law through adoption and integration of relevant legal frameworks and instruments, and details areas of intervention in the security sector that are key to combating TOC. These include fundamental crime prevention and intelligence measures; specific reforms to boost the effectiveness of the judiciary, prison and police systems; actions to reduce corruption and money laundering; and support for more effective border management. The Guidance Note also highlights the important role of international cooperation in helping SSR successfully counter TOC.

In addition, the ITGN looks at the key actors, entry points and relevant principles, and proposes adopting specific tools as well as replicating and strengthening best practices that have proved successful. Given the complex causes of TOC and the broad spectrum of actions required to combat it effectively, the Guidance Note also outlines the overall scope of current United Nations efforts. While taking into account post-conflict and development factors that serve to facilitate TOC – such as governance, corruption and poverty – the ITGN's principal focus is on practical measures to counter TOC. Annex IV contains a list of available resources and toolkits.

## 3. INTRODUCTION

---

The detrimental impact of TOC on security and stability is often underestimated. This ITGN exposes TOC as an obstacle to the goals of SSR and to the wider

framework of the rule of law and human rights. At the same time, it highlights that SSR and TOC are highly interrelated, and that reforming the security sector is essential for effectively tackling TOC at the local, national and international levels. The Guidance Note has been developed by the United Nations Inter-Agency SSR Task Force (IASSRTF) under the leadership of the United Nations Office on Drugs and Crime (UNODC). Aligning with the United Nations Convention against Transnational Organized Crime (UNTOC) and its related protocols,<sup>2</sup> the ITGN delivers guidance on incorporating TOC countermeasures into SSR processes by highlighting effective operational and strategic courses of action that can be taken by practitioners, both in the field and at United Nations Headquarters.

## 4. THE ROLE OF SSR IN COUNTERING TOC

In explaining the role SSR processes play in countering TOC, the ITGN will, first, explain the definition of TOC. It will then list the challenges TOC poses to the security sector, and highlight core principles for integrating measures to combat TOC into SSR processes at the national, regional and global level. Key areas for integration are then examined, and the Guidance Note concludes by identifying the risks – as well as opportunities – that lie ahead.

### 4.1. Defining TOC

TOC involves the “groups” undertaking these actions (as described in the UNTOC – see Box 1), as well as crime flows or markets, illicit activities, and conditions that keep the business running.

The UNTOC recognises that TOC covers a wide and ever changing range of crimes. The Convention therefore does not explicitly define TOC, nor does it provide an exhaustive list of forms of TOC. Rather, it applies the term to all crimes where the offence is transnational in nature and involves an organized criminal group.<sup>3</sup> The Convention requires that national and international law criminalizes

#### Box 1. Definition of Organized Crime

According to the UNTOC (2000):

“Organised 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; offence undertaken by three or more people with the aim of material gain”.

participation in such a group; any laundering of the proceeds of crime; corruption; and obstruction of justice.

In terms of activity, TOC can be grouped into three broad categories: provision of illicit goods; provision of illicit services; and infiltration of governments or businesses (see Annex I). The impact of such activity is multifaceted. Through provision of illicit goods and services, TOC puts human security at risk. Through infiltration of governments and the social fabric, TOC obstructs peace, sustainable development and the rule of law.

## 4.2. Acknowledging the Challenges Posed by TOC in Relation to the Security Sector

The United Nations High-level Panel on Threats, Challenges and Change identified TOC as one of “six clusters of threats with which the world must be concerned now and in the decades ahead” (United Nations, 2004). In February 2010, the United Nations Security Council noted “with concern the serious threat posed in some cases by drug trafficking and TOC to international security in different regions of the world” and invited the Secretary-General of the United Nations “to consider these threats as a factor in conflict prevention strategies, conflict analysis, integrated missions’ assessment and planning” (UNODC, 2010a).

TOC adapts and reacts to its surrounding environment, responding primarily to drivers that are technological, political, economic and operational in nature. The following factors have been identified as leaving certain societies more vulnerable to TOC (OECD, 2012):

- Institutional fragmentation – weak or absent rule-of-law institutions and low or limited law enforcement capacity.
- Corrupt governance mechanisms, weak accountability and poor inter-agency coordination.
- Social fragmentation – widespread social and economic inequality, discrimination, and structural violence.
- Availability of resources matched with poor regulation of private economic activities.
- A history of violence, lack of social cohesion, and a lack of peaceful dispute settlement mechanisms.
- Porous borders and regional instability.
- Expansion of criminal activity globally, leading to TOC legitimacy and crime entrenchment.

Once entrenched, TOC can generate new, internal dynamics – such as the establishment of informal forms of social and economic regulation; protection rackets; capture of public sector resources; seizures of property and land; and eventual entry into the licit private sector and political process (OECD, 2012). That does not mean, however, that criminal organizations seek to replace the State, as do insurgent and rebel groups (Cockayne, 2013). In fact, groups adopting criminal strategies rather tend to abstain from the responsibilities of ruling like a State (Saviano, 2006).

The adoption of a TOC-informed perspective into SSR is particularly necessary in fragile and post-conflict territories where the United Nations is actively engaged in building stability, peace and the rule of law.<sup>4</sup> In contexts of generalized violence, instability and the breakdown of traditional social institutions, criminal networks often constitute an important interface between international assistance providers and warring parties. However, organized crime groups often have little interest in the cessation of hostilities, as they can profit from their continuation. This commitment to instability can make TOC a threat to lasting peace and a significant obstacle to achieving the goals of peace-building operations.

Moreover, TOC undermines respect for and the protection and fulfilment of human rights, as it generates wide-ranging forms of violence and intimidation against rights holders while undermining State protection. Human rights defenders and their organizations often become targets of TOC violence, undermining the ability to promote human rights more broadly.

TOC trades in any illicit goods and services marketable, including people. This often leads to high levels of violence, abuse and victimization that strongly affect social and human capital in affected communities and can be measured as human development loss. Women and girls are exposed in particular to a higher risk of experiencing violence – including sexual and gender-based violence – and becoming victims of human trafficking.

## **5. TOC MEASURES AS A CRUCIAL ELEMENT OF SSR**

### **5.1. Core Principles**

Before considering practical measures to tackle TOC within SSR, it is important to emphasize the normative context underpinning them.

#### **A joint security-development-human-rights approach is essential**

Modern threats cannot be met with traditional compartmentalized responses. Security challenges often arise from factors having to do with underdevelopment,



such as inequality, marginalization and low disposable income, as disadvantaged groups seek to rectify imbalances or conversely, are directly targeted for exploitation. At the same time, TOC, conflict and terrorism are prime obstacles to welfare, economic growth and sustainable livelihood. While a coherent narrative on this interrelationship is steadily advancing, the United Nations must also advance proper overarching tools and mechanisms within the scope of SSR.

### TOC adapts to available opportunities

Countering TOC without understanding and tackling what enables it will not produce long-lasting results. Merely labelling phenomena as organized crime is a prescriptive exercise that may overshadow its many components and nuances. TOC is complex and highly adaptive, and at the same time embedded in specific political, economic, social and cultural contexts. Organized crime is all about the opportunity to respond to market trends in a context of poor regulation and weak rule of law. This makes (post-) conflict environments particularly vulnerable. Adding to the complexity are the local, national, regional and international dynamics that come into play. Any SSR approach to the issue that seeks to produce long-lasting rule of law must address the multi-layered reality of incentives, rewards and risks that facilitates TOC.

### Strengthen human rights and rule of law to increase the effectiveness and legitimacy of combating TOC

Particularly in post-conflict scenarios marked by State fragility and multiple power-holders, soft interventions using systems of incentives and disincentives may be employed with the aim of transforming armed groups into actors supportive of peace and stability. However, policies that seek the immediate cessation of hostilities may serve only to empower criminals within the political and economic architecture, and in so doing end violence today by displacing the burden onto future generations. SSR sensitive to TOC must include tailored measures to strengthen the rule of law within a human rights framework.

### Ensure democratic oversight of security sector institutions and human rights protection in fighting TOC

As a core element of SSR, effective regulation and democratic control of security sector institutions, including intelligence agencies involved in curbing TOC, is essential. The executive, legislative, judiciary and ombudsman institutions all have responsibilities in this regard. Countering TOC must be grounded in international law, including international human rights law.<sup>5</sup> States have a legal obligation to respect, protect and fulfil human rights in all phases of security sector activities and in operations at all levels. This also involves the administration of justice, including in addressing TOC and in the context of justice reform and

security reform processes. International human rights standards must be applied *inter alia* to investigations, the use of force, the right to privacy, arrest, detention, the prohibition of torture and other forms of inhuman treatment, non-refoulement, due process, and international intelligence information sharing.

### Equality and non-discrimination must also underpin all measures against TOC in the context of SSR

These rights and procedural safeguards are essential, and address the core of a State's effectiveness, credibility and legitimacy in combating any form of crime. Furthermore, the State's international human rights obligations – such as those of reparation and protection – must extend to those who become victims of human rights violations committed in the course of counter-TOC operations. Civil society organizations, including women's organizations, are essential partners in the democratic oversight process necessary to ensure public accountability.

### Implement regulations and procedures for security sector activities countering TOC

Along with democratic oversight, it is vital that effective checks and balances, transparency, accountability and disciplinary mechanisms are built within and around the security sector. Security agencies and their staff should comply with expected standards of behaviour and performance, as defined by applicable laws and national policies. Coordination among security sector actors at all levels is essential. While specific situations will inform the tailoring of measures, awareness of these core principles and taking the steps suggested will help facilitate an increased responsiveness to the needs of the population, improving the safety and security of every segment in society as a result.

## 5.2. Addressing the International and Regional Dimensions of TOC

A fundamental aspect of SSR sensitive to TOC is that the international and regional dimensions should always be taken into account. Effective SSR cannot be achieved at State level if the broader regional and sub-regional security situation, including the causes and dynamics underpinning TOC, are not addressed. From a global perspective, national efforts made in isolation can even be counterproductive, as they may push the problem to regions less resistant to TOC. Crime prevention and responses must be seen as an integral part of the larger project of global governance and SSR.

It is the obligation and responsibility of Member States and their institutions to act as the central providers of security for those within their jurisdiction. However,

the cross-border nature of TOC operations demands that SSR approaches expand beyond national borders and encompass regional and international cooperation in various forms.

Criminals have embraced the breakdown of the traditional geographical borders of States more readily than governments. Criminal groups exploit the failure of States to cooperate, their weaknesses or discrepancies in legislation, varying market conditions, and inconsistent enforcement approaches across borders. As a result, TOC thrives in regions lacking effective international cooperation. International and regional cooperation is therefore indispensable to combating crime within national borders. Law enforcement approaches that are exclusively national can increase the regional threat by diverting trafficking activities to less regulated neighbouring countries. The benefits of regional and international cooperation include sharing of information and best practices; confidence building; technical assistance to improve capacity and integrity in law enforcement and judicial systems; the ability to investigate and prosecute TOC effectively; and development assistance to promote education, employment, rural development and urban renewal – all of which work against crime and support stability.

### Strategic measures

- Ensure alignment with regional and international treaties, standards and norms, including those that monitor compliance and enforce implementation through sanction mechanisms.
- Strengthen the role of regional and international organizations by encouraging cooperation among countries in implementing effective knowledge sharing measures that can in turn strengthen implementation of wider SSR processes. Regional organizations are providing an increasingly valuable platform for action. It would be advisable to undertake a regional programming approach, whereby international actors promote opportunities for cross-border activities that integrate action on human security, justice and jobs. In many places, the operational responses of the United Nations on the ground continue to be framed largely in terms of national-level mandates or national-level programming inadequate to address a threat as global as organized crime.
- The contribution of developed countries to the global fight against crime is essential, considering that demand for illicit products and services originating in these countries acts as a primary funding source for TOC networks. Addressing the demand-side of TOC should strengthen the role of international donors and specialized agencies in countering TOC through SSR.<sup>6</sup> Supply-side interventions in producing and transit countries are most effective as part of a combined global approach.

- Strong gender analysis and early warning indicators should be employed to assess and respond to the different impacts of TOC on affected groups, including indigenous peoples and minority groups, people living with disabilities, women and children. Efforts should include building the capacities of their leaders and organizations to assist in preventing and responding to challenges by TOC as well as to contribute to SSR processes.<sup>7</sup>

### 5.3. Integrated Capacity Building

It is of paramount importance to build the technical skills and special capacities needed to target TOC; these training efforts should extend to the security sector as a whole and involve all stakeholders. In providing integrated capacity building, all actors along the criminal justice chain are fortified in terms of resources, synergies and understandings. This will permit harmonization of all stakeholders' activities toward shared objectives and information, thus generating higher efficiency and effectiveness in addressing TOC. Emphasis should be given to United Nations norms, standards and guidelines [*e.g.* UNTOC, the United Nations Convention against Corruption (UNCAC), and standards and norms in crime prevention and criminal justice, among others] in order to set the priority of enhancing system requirements to address TOC. Finally, a holistic approach encompassing the broader determinants of TOC (structural, social, economic, political) should inform the design of overarching TOC-sensitive SSR policies.

#### Strategic measures

##### Enhance regional and multilateral anti-TOC technical cooperation

- Use the UNTOC as the legal basis for international cooperation, or negotiate multilateral and bilateral agreements.
- Promote technical assistance among countries to help them develop joint strategies and practical action programmes to combat TOC, as a joint response of collective prevention.
- Offer regional training for law enforcement, prosecutors and judges; capacity building; assistance to develop regional networks; and expertise for related legislative reforms.
- Promote the sharing of information and best practices, including by creating a list of experiences at the regional or international level to help neighbours deal with new cases.

##### Promote informal cooperation through operational channels

- Develop an effective capacity to investigate and prosecute transnational crimes by promoting the establishment of joint investigative teams.

- Encourage law enforcement liaison officers to provide direct contact with the law enforcement and government authorities of the host State, including through regulated intelligence sharing, with rigorous democratic oversight.
- Promote reciprocal arrangements between States that facilitate exchange of “liaison magistrates” or other criminal justice and law enforcement liaison personnel.
- Enhance the criminal and criminal procedure codes, to ensure that sensitive information received via international cooperation is kept confidential.
- Promote treaties and agreements enabling the international transfer of sentenced persons from one country to another.

## Operational measures

### Organize confidence-building events

- Ensure that criminal justice counterparts in different countries know each other personally. This builds trust and cements relationships among security sector agencies across borders; establishes channels of communication and improves cooperation on police and judicial matters; and accelerates the handling of organized crime cases.
- Engage border area communities in developing solutions to TOC challenges with due respect for ethnic, linguistic, cultural, gender and other issues. The regional nature of TOC also provides opportunities for new policy initiatives to encourage local communities in border towns to engage in the SSR process.
- Develop regionally owned peace-building initiatives. Smuggling, trade and movement of peoples are often important to livelihoods in these communities, while effective measures to counter TOC depend on public support. Unifying communities across borders and targeted development interventions may therefore improve security in border areas and at the same time promote the protection of women and children.
- Integrate human rights into all phases of operations to counter TOC and activities by security sector institutions and regularly review their effectiveness in a transparent manner.

### Utilize existing international legal instruments and improve national legal frameworks

- Review and enhance criminal codes and criminal procedure codes to ensure that the offences set out in the conventions are criminalized under the legislative framework; that legal jurisdiction for them is established; and, where applicable, that they are considered extraditable.

- Periodically review existing treaties and laws and amend as necessary to keep pace with rapidly evolving practices and challenges in international cooperation. For instance, ensure the enactment of laws that lead to a reduction in the number of cases of human trafficking.
- Ensure that national legal frameworks provide maximum flexibility to enable broad and expeditious international cooperation.<sup>8</sup>
- Develop national policies and procedures for extradition and mutual legal assistance (MLA) in the absence of treaties and, to the extent possible, where dual criminality is absent.
- Develop the capacity of law enforcement personnel, prosecutors and judicial officials regarding legal requirements for MLA and extradition, as well as the confiscation of assets; develop international cooperation to facilitate confiscation.
- Develop the capacity of authorities to cooperate internationally in protecting victims; in compensating them for the harm they suffer as a result of TOC or activities to counter TOC; and in repatriating them safely when possible.
- The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (CITNDP) and the UNTOC play a critical role in promoting cooperation among States to prevent and combat TOC and drug trafficking. In order to ensure successful prosecution of persons involved in these crimes, a system of regional prosecution centres could be established, which would allow regional States to prosecute serious criminals on behalf of other regional States. This would allow for the focusing of technical assistance and prevent the undue influence of criminal elements on the criminal justice institutions.

Increased international cooperation to counter TOC as part of an SSR process includes improving border management and preventing uncontrolled movements of goods and people across borders. It is moreover vital to implement financial measures aimed at reducing the space for illicit profiting and money laundering, which exploit the existence of fiscal paradises and safe havens. International cooperation can also promote the knowledge and use of new technologies, as well as the sharing of know-how to enhance special capabilities in the fight against TOC. Inter-agency cooperation at the national level is not only crucial for effective local action against TOC, corruption and terrorism, but also an important precondition for effective cross-border cooperation against these major threats.

TOC by definition involves more than one country in its preparation, planning, execution, impact and evaluation. The recent broadening of the SSR agenda recognises this fact and includes regional development and governance beyond



the State level. That inclusion provides opportunities to address TOC in its natural dimension – that of the regional and global level – while retaining a significant impact at the local level. National bodies will remain the primary custodians of security but international and regional organizations can be important agents of change, by providing the occasion and the logistics to enhance cooperation, or by advising on and lobbying for greater exchange of information between countries.

### **Box 2a. West Africa Coast Initiative**

In July 2009, UNODC, Department of Peacekeeping Operations (DPKO), Department of Political Affairs (DPA), United Nations Office for West Africa (UNOWA), in cooperation with INTERPOL, launched the West Africa Coast Initiative (WACI). The initiative is intended to help the Economic Community of West African States (ECOWAS) implement its Regional Action Plan on Organized Crime (including drug trafficking) in West Africa. WACI consists of seven components: Transnational Crime Units (TCUs), a political framework, the judiciary and prosecutions, forensics, law enforcement capacity building, border management, and anti-money laundering activities. The pilot phase of WACI was designed to capitalise on the field operations of DPA and DPKO in Côte d'Ivoire, Guinea-Bissau, Liberia and Sierra Leone, and on the ongoing programmes of UNODC and INTERPOL in the sub-region. In June 2011, the WACI High-Level Policy Committee decided to expand the project's implementation to the Republic of Guinea. The initiative is a response to growing recognition of the serious and far-reaching nature of the threat that organized crime poses to security and stability in West Africa. WACI was launched to combat organized crime through international coordination of law enforcement agencies – utilizing all the information and resources available within the relevant countries – as well as through international forms of operational cooperation. A cornerstone of WACI is the establishment of a TCU in each implementing country. The national unit gathers and analyzes information and develops operational intelligence to support its investigative role in the most complex crime cases. To date, TCUs have been established in Liberia, Sierra Leone and Guinea Bissau; in these countries, WACI has successfully strengthened law enforcement inter-agency cooperation and coordination, leading to an increase in seizures and better investigation capacities. WACI has also reinforced INTERPOL's national bureaus by providing a better infrastructural environment. On 29 October 2013, during the WACI High-Level Policy Committee meeting, a new WACI regional project was approved that focuses on the TCUs as the project's core strategy as well as the fundamental operational building blocks for a regional law enforcement approach.

### **Box 2b. Counter-piracy cooperation in East Africa**

UNODC is supporting regional efforts to prosecute suspected pirates apprehended off the coast of Somalia. There, countries with naval forces active off the Horn of Africa have concluded transfer agreements with regional States – such as Kenya and the Seychelles – that have agreed to conduct prosecutions of suspected pirates in their national legal systems. The capacity building occurring as a result of the prosecutions and detention of suspected pirates is helping to strengthen the criminal justice system in both countries. A number of other regional countries have indicated interest in becoming regional centres for prosecution as well. Regional prosecution is facilitated in the case of piracy offences by the fact that article 101 of the United Nations Convention on the Law of the Sea provides for permissive

► universal jurisdiction for these particular crimes. As a result, any country in the world may choose to prosecute persons suspected of piracy, no matter where the actual offence has occurred. The CITNDP and the UNTOC do not provide for universal jurisdiction for piracy. Instead, they set out a series of bases for criminal jurisdiction, both mandatory (if the offence occurs on the territory or on board its ships or aircraft, and if the person is present in the territory and the State refuses extradition), or optionally (when certain offences are committed outside a given territory but with a view to committing an offence inside that territory). Both Conventions, however, also provide that they do not exclude the exercise of any criminal jurisdiction established by any State in accordance with its domestic law. With the appropriate legislative basis, it would therefore be possible to establish courts within the national system of a select number of regional countries that could conduct prosecutions of serious crime that has occurred in other regional States. Where possible, this could be done in the countries that have a link to the criminal offence – but it may also be done as a means of responding regionally to a transnational criminal threat.

#### **5.4. Supporting TOC through Legislative Reforms that Impact the Security Sector**

The rise of TOC is often due to a lack of proper legislation, the existence of legal loopholes, or poor implementation of existing legal instruments at both the international and national levels. Legislative and other normative and procedural deficiencies at the national level render security and criminal justice officials unable to perform their functions in preventing and responding to TOC. The absence of a harmonized legal framework at the international/regional level can result in the flourishing of TOC activities in those countries lacking effective domestic legislation, thereby creating negative consequences for the security and stability of neighbouring countries.

National ratification of international legal instruments; national application of international criminal justice standards; and the translation of internationally agreed provisions into national legislation, regulations and procedures can be the building blocks of effective strategies to prevent and respond to transnational crime phenomena such as TOC. Such international tools could include, for example, the International Convention on Civil and Political Rights (ICCPR), UNTOC, and the UNCAC. Equally important is the adoption of new regulations to reform and improve existing national criminal justice mechanisms and the rule of law overall. Adoption of a backing legal instrument is in fact a precondition for the legitimate implementation of all measures in any of the key areas described in this Guidance Note (more available tools are enumerated in Annex IV). These instruments are designed to be adapted to the needs of each State, irrespective of its legal tradition and social, economic, cultural and geographic conditions. They can be seen as core principles constituting the normative backbone of TOC-sensitive SSR.

The legislature has the initial primary responsibility of undertaking the measures necessary for implementing international legal instruments at national level. However, all security sector institutions then have responsibilities for integrating those obligations into their everyday practice and functioning in a transparent and accountable manner. Democratic oversight institutions have a responsibility to ensure compliance with international legal obligations. Civil society also plays an important role in this regard, by creating the conditions for proper and meaningful implementation of the relevant legislation; promoting knowledge and awareness of the new legal instruments; and monitoring the way they are implemented and applied. Relevant United Nations agencies can assist countries in ratifying and implementing United Nations conventions. Meanwhile regional organizations – such as the African Union (AU), the Council of Europe (CoE), the Organization of American States (OAS), the Organization for Security and Cooperation in Europe (OSCE) or the Association of Southeast Asian Nations (ASEAN) – not only can assist in implementing the relevant regional legal instruments, but also can play an important role in promoting and fostering a regional approach to preventing and responding to TOC. Practitioners working on SSR processes should consider implementing TOC conventions in the following ways.

### Strategic measures

- Promote the ratification, domestication, harmonization and integration of relevant international and regional treaties, standards and norms. In particular, advocate for the ratification and implementation of global United Nations conventions: the UNTOC and its protocols, the UNCAC, and the various United Nations documents against terrorism.<sup>9</sup>
- Promote the widest possible adoption of other relevant international and regional legal instruments on crime and criminal investigation, such as the Inter-American Convention on Corruption and the Convention on Cybercrime.
- Use existing regional plans of action/decisions to address facets of TOC, in order to harmonize regionally relevant legislation and in so doing leverage appropriate legislative reform at national level.<sup>10</sup>
- Assist in bolstering new comprehensive regulatory systems in line with the international legal framework, to regulate licit transactions and to prevent and control manifestations of TOC, *e.g.* manufacturing and trafficking of firearms and light weapons, human trafficking and migrant smuggling, precursor control and drug trafficking, cybercrime, poaching and piracy.
- Advocate the ratification of conventions instrumental in defusing TOC through fair implementation of contrasting measures, or by alleviating criminogenic factors: relevant tools could include human rights mechanisms, fair trade agreements and environmental protection instruments.

- Monitor compliance with international arrangements conferring leverage to peer-review mechanisms and possible sanctions in case of noncompliance.
- Encourage active participation in existing review/self-assessment mechanisms, such as the peer review mechanism established under UNCAC.
- Utilize foreign investment as an entry point for United Nations agencies, NGOs and donor countries to advocate the importance of international codes and anti-TOC laws to recipient countries, in order to promote foreign direct investment.

### Operational measures

- Strengthen national legal frameworks addressing TOC, criminal justice reform and human rights.<sup>11</sup>
- Develop national legal capabilities while clarifying the powers of and enhancing support for parliaments. Provide capacity building and training for actors in the legal sector, in particular in the areas of criminalization, prosecution and adjudication of offences covered by UNTOC and its supplementary protocols; liability of legal persons; international cooperation, including MLA, extradition, cooperation among law enforcement agencies and transfer of criminal proceedings; special investigative and prosecutorial techniques and related safeguards for the protection of the rights of those under investigation; protection of witnesses; assistance to and protection of victims; protection measures for criminal justice officials involved in TOC investigations.
- Identify and disseminate among practitioners case-based good practices and lessons learned in the investigation and prosecution of TOC cases in comparative contexts, regardless of the specific types of offences involved.
- Provide national counterparts with appropriate financial and human resources, as well as technical assistance if required (*i.e.* mentors on drafting/legislative reform) to support governments that intend to embark on national legislative reforms.
- Promote legislation enacting reforms and enhancement of the criminal justice system's main actors, including police, the prison system, the judiciary, customs, and other relevant civilian authorities, with a view to combating TOC.
- Introduce comprehensive reform of criminal legislation and sentencing practices. Measures here would include decriminalizing certain acts; shorter terms of imprisonment for selected offences; non-custodial sentences as an alternative to prison; and widening possibilities for parole.
- Mainstream crime prevention into TOC national legislation.

- Strengthen the technical knowledge of criminal justice operators necessary to implement the required preventive and control measures against TOC, including specialized knowledge in areas such as firearms identification and tracing, and financial investigations.
- Promote the establishment of regional mechanisms for prosecution of criminals in line with international conventions.

Effective implementation of the legislative framework to prevent and combat TOC depends on availability of the necessary financial, human and technical support. In fact, legal instruments to counter TOC require adequate support to ensure their implementation beyond ratification, including in building the capacity of the main criminal justice actors involved (i.e. prosecutors, public defenders, police officers and security guards). Furthermore, the implementation of international provisions and measures will often require concurrent reform of the criminal justice system, in particular with regard to the investigation, prosecution and adjudication of TOC cases

### **Box 3. Global project on firearms**

As the only global legally binding instrument on firearms, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (Firearms Protocol) establishes a worldwide framework for States to control and regulate licit arms and arms flows; prevent their diversion into the illegal circuit; and facilitate the investigation and prosecution of related offences. By addressing both the legal and illegal aspects of firearms, the Protocol sets out a comprehensive regime that prevents and combats trafficking without hampering the legitimate flow of licit arms. In 2011, the UNODC launched a global project on firearms that focuses on the following areas: awareness-raising and promotion of the ratification of the Firearms Protocol; development of specialized tools; development of legislation to strengthen the legal and regulatory framework on firearms and promote regional harmonization of laws and practices; capacity building and training to reduce the availability of illegal firearms, and (again) strengthen the regulatory framework on firearms, especially in marking, record keeping, transfer controls and the collection and destruction of firearms; training and capacity building with a view to strengthening criminal justice responses and to promoting effective international cooperation and information exchange for combating trafficking; increased knowledge regarding transnational firearms trafficking patterns; and enhanced civil society engagement. The first concrete output of the project's activities is the development of regional and national action plans in West Africa and South America for implementing the Firearms Protocol. The development process included drafting and assisting the project countries with filling in a self-assessment questionnaire; analysis of the data submitted; and comparative legal research, which identified existing gaps in the implementation of the Firearms Protocol provisions at national level. The conclusions of the research have been summarised and presented at regional conferences whose aim was to promote the harmonization at regional level of the legislation and existing practices. This was successfully achieved through adoption of roadmaps tailored to the specific needs of each region, and national action plans for the implementation of the Firearms Protocol.

## 6. KEY AREAS OF SSR TO TACKLE TOC

Below are eight key areas of intervention in which a comprehensive SSR strategy can produce effective TOC measures:

- 1) Formulation of a strategic analytical framework
- 2) Crime prevention
- 3) Intelligence
- 4) Judiciary system reform
- 5) Police reform
- 6) Prison reform
- 7) Countering of corruption and money laundering
- 8) Border management

### 6.1. Formulating a Strategic Analytical Framework

The success of SSR processes depends on the leadership and commitment of the host country, as well as effective cooperation with international partners. SSR must be in line with a clearly defined national security vision and goals, and take the country's unique social, political and economic contexts into account. By first identifying a broad range of relevant national and international actors and then engaging these stakeholders in a meaningful reform process, SSR can help combat TOC (Kemp, Shaw and Boutellis, 2013).

#### Stakeholders

It is crucial that the SSR vision and goals including those pertaining to countering TOC are led by national actors at all levels. The United Nations, together with other partners, will be well placed to support this process through technical expertise and capacity. In this regard, attention should be given to ensure that the range of actors involved is indeed wide; it should, for example, include specialized international agencies, think tanks, academia, investigative journalists, women's groups and other forms of civil society organizations that play a central role in creating national ownership and furthering understanding of the State's socio-political context.

#### Strategic measures

- Build political support for the integration of specific TOC objectives into national SSR policies, strategies and plans.
- Support the development and adoption of specific TOC goals into national SSR plans and agree on national indicators to track progress.

- Facilitate regional dialogue on TOC and where possible agree on joint strategies to tackle TOC with specific SSR provisions.
- Support the development of regional monitoring mechanisms to jointly tackle spillover effects of TOC through cross-border cooperation.

## Operational measures

- Gather or generate data to analyse TOC in conflict areas.<sup>12</sup> A solid understanding of the dimension and nature of illicit trafficking flows is crucial for informed decision-making; for example, tracing and analysing illicit flow of arms and ammunition can have a decisive impact on the SSR process. Acquiring such understanding requires interdisciplinary expertise and methodologies, and the process must also address the interrelationship between TOC and sustainable development (OECD, 2012).
- Promote regional analysis and information exchange, as well as possible training/research assignments, to generate a knowledge base for the SSR strategy that can serve to support both regional and international cooperation. The latter may moreover allow peacekeeping forces to access information and intelligence on TOC (OECD, 2012; CIC, 2013).
- Advocate for public private partnerships and collaboration between (inter-) national institutions and private sector organisations, allowing for more effective and efficient research focused on the causes of and possible reforms aimed at eradicating TOC.
- Produce foundational overviews for countries and regions that examine the impact of historical legacies and change processes determining the rise of criminal groups. These efforts should also address the characteristics of policy-making that may directly or indirectly affect the continuation of TOC in the geographical area concerned, as well as the role played by power groups, ideologies and values.
- Generate understanding of relevant local organizations, institutions and key actors that form part of or oppose TOC, and their qualitative and quantitative relationships.
- Assess why certain policies gain priority over others and why actors favour certain policies over others.
- Conduct a gender-responsive conflict analysis to map out the stakeholders involved in TOC and how their operations impact on the society, especially the impact of TOC on issues of women's protection.
- Regularly carry out an inter-institutional evaluation of the impact of operations to counter TOC on human rights, in order to ensure accountability and non-repetition of negative impacts in the future. These processes should ensure public participation to the greatest possible extent.

#### Box 4. TOC threat assessments

UNODC has been mandated by the Member States to conduct global analyses of transnational organized threats. In 2010, UNODC released a global report assessing the problems posed by TOC (UNODC, 2010a). UNODC then launched four regional TOC threat assessments, which were reviewed by the members of the UN System Task Force on Transnational Organized Crime and Drug Trafficking, established in 2011. These reports strengthen the information base from which to formulate policies and take decisions suited to individual contexts. The regional TOC threat assessments (TOCTA) are particularly important considering their in-depth information on specific regions (and countries) where SSR is relevant. At the moment these cover Central America and the Caribbean, East Asia and the Pacific, West Africa and East Africa; similar assessments are requested for other regions, such as North Africa and the Middle East. Given the vulnerability of certain countries to the incursion of TOC – often heightened during conflict or in post-conflict situations – the four TOCTA reports not only identify ways to counter TOC, but also provide guidance on particular methods of supporting strategic changes that may work best in specific challenging cases. A concrete example of an evidence-based approach to SSR comes from Central America and the Caribbean, where the TOCTA findings helped to formulate a regional plan of action and coherent response to TOC.

## 6.2. Crime Prevention

In circumstances where joining a criminal group reflects a lack of alternatives, a system based purely on law enforcement may not be enough to curb TOC.<sup>13</sup> Progressively, the international community has enshrined two key notions in international instruments and resolutions. First, crime is a phenomenon too complex to be left to the criminal justice system and security sector alone. Secondly, in order to prevent and respond to crime effectively, governments need to work together with all relevant sectors of civil society, including minority groups, indigenous peoples, women's organizations and the private sector. A prevention-based approach is not only more effective and sustainable, but also considerably less exhaustive of financial means (see Annex II).

Programmes must be set in motion that offer beneficial alternative sources of livelihood, thereby making crime the worst possible option. These involve providing assistance to the most vulnerable groups and ensuring minimum education and employment. Fair access to public services, including citizen security, is also important, and an objective that is pursued through SSR. An effective prevention strategy will:

- 1) Identify and tackle points of vulnerability at the level of the individual, family, community, State or region, (*i.e.* uncontrolled urbanization, income inequality, poor infrastructure, a high violence rate). In each case it will be important to link vulnerabilities and corresponding strategies to particular actions that can be addressed through an SSR process.



- 2) Strengthen the resilience to crime by strengthening transparent governance, fair justice provision, community participation, and urban upgrading.

## Stakeholders

Crime prevention to combat TOC requires government leadership and horizontal and vertical cooperation among various sectors. This must go beyond security and law enforcement agencies to include health, education, housing and infrastructure, as well as all public stakeholders able to target the determinants of crime and social deviance. On the other hand, civil society participation, including academia, community organizations, minority and women's groups, and interest and faith-based groups, may complement this cooperation in a bottom-up way, by offering a sense of purpose, information and support to marginalized individuals or groups. Civil society can also advocate for public authorities to target elements susceptible to joining criminal networks, and ensure that there is sufficient inclusion of crime prevention measures in law enforcement policies. In many contexts, women's organizations and women's leaders can play a key role as interlocutors in these crime prevention efforts, while also providing relevant analysis of threats faced by women and girls.

## Strategic measures

- Support the development of national crime prevention strategies that recognize and address the linkages between the root causes of crime at the local level and individuals' involvement with TOC.
- Identify specific action plans to be incorporated into the national SSR process.
- Strengthen commitment to fight impunity and corruption among security sector institutions at the highest level.
- Develop TOC strategies targeting the security sector, with the objective of enhancing trust in that sector.
- Uphold human rights while tackling TOC through integration of institutional accountability procedures and oversight into the security sector, so as to prevent the perpetuation of violence by strengthening security institutions' legitimacy.
- Develop knowledge-based approaches to addressing risk factors by understanding social, economic, political and situational contexts that can increase vulnerability to crime.
- Support equal access to quality education, including for careers in the security sector.
- Advocate national and international inter-agency cooperation, to ensure the collaboration of different actors on the crime prevention agenda.

- Engage with civil society groups to foster a supportive political environment through genuinely inclusive dialogue with groups that may otherwise feel marginalized by the process.
- Incentivise and support the positive intervention of private firms in “troubled” or sensitive areas.
- Strengthen weapons management programmes, including storage facilities and practices, to prevent unlawful acquisition and usage of weapons by criminals.

### Operational measures

- Promote “early intervention” mechanisms through providing assistance to children and families at risk and survivors of sexual and gender-based violence and trafficking, including by offering parental skills development or encouraging young people to complete their education. Ensure that security providers work in close cooperation with social services, health providers and civil society, as part of a whole-of-society approach.
- Foster development of positive role models among security and justice providers and generate a common narrative in which crime is not a valid source of identity.
- Increase the general level of understanding of various forms of TOC, as well as criminal methods used and related risks, in order to prevent vulnerable people from falling victim to crime (e.g. trafficking in persons or smuggling of migrants).
- Include security providers in public awareness campaigns and foster direct dialogue between them and communities.
- Design penal sanctions while taking into account the specific needs of women, migrants, youth and indigenous groups. Regular consultations should be held with women’s organizations and leaders to determine sanctions addressing the needs and experiences of women with regard to TOC.

### Synergies

Successful crime prevention approaches are linked to interagency cooperation and the ability to implement holistic programmes that enhance the respect for human rights and the rule of law while also involving a broad range of public entities, private firms and civil society organizations. Elevation of crime prevention from a custom to a mandatory practice requires effective legislation and the nomination of appropriate agencies to implement it. This may require the building of specific capacities in terms of logistics and awareness. Police reform is crucial to move from a reactive approach to a preventive one (grounded in

intelligence, information gathering and evidence-based policing). Prison reform, specifically emphasizing restoration and reintegration can play a fundamental role in preventing relapse into criminal activities.

### 6.3. Intelligence

The central task of intelligence analysis is to help law enforcement officers, policy-makers and decision-makers deal more effectively with TOC. This is achieved through timely warnings of threats and supporting strategic decision-making and operational activity while adhering to international legal standards. Intelligence-led, proactive methodologies use crime analysis to identify specific risk factors and vulnerabilities and concentrate law enforcement resources on prevention. The intelligence-led approach requires harmonizing existing sources of information, and establishing systems for integrated analysis and cooperation at national and international levels.

While intelligence and security services can ensure that resources are allocated effectively to national threat priorities, lack of transparency and accountability can at the same time generate human rights violations with impunity. International human rights standards must be incorporated into all phases of the intelligence cycle, including international information sharing.<sup>14</sup>

#### Stakeholders

The main actors are the international and national bodies that produce and gather information and perform strategic analysis. These include international specialized agencies (INTERPOL and Europol for instance), law enforcement structures and national criminal investigation units, as well as academia, think tanks and civil society organizations. Legislative bodies are charged with producing the legal instruments to support the collection and sharing of intelligence, by defining clear procedures and guidelines. Legislation should also safeguard against intelligence practices that undermine human rights and civil freedoms. Civil society and other public institutions, including the ombudsperson, must play a central role in exercising democratic oversight over intelligence-led operations to ensure legality, legitimacy, effectiveness and efficiency.

#### Box 5. Analysis of information

According to Article 28 of the UNTOC (2000):

“Each State Party shall consider analyzing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.”

Importantly, intelligence operations must be aligned with nationally owned strategies, managed in a transparent and coordinated manner and discussed in appropriate policy-making bodies, including the country's national security council. The effectiveness of these operations and their impact on the proclaimed policy goals of the government are generally overseen by the dedicated parliamentary committees. It is important to ensure that members of parliament who serve on the security and defence committees have the requisite security clearances to enable them to perform their oversight function in a meaningful way.

### Strategic measures

- Develop an integrated system for managing and exchanging police information and intelligence among law enforcement and judicial structures. Users (agencies) should employ the same analysis software and similar intelligence working methodologies to ensure compatibility.
- Support interventions for inclusion of women as police informants, with adequate protection mechanisms.
- Facilitate the promotion of mechanisms (legal, institutional and technical) for sharing and coordinating information among national agencies and international partners, with adequate regulation that is in line with international standards.
- Gather disaggregated gender and age data and gender analysis to assess the impact of TOC on women, girls, men and boys, as well as wider population groups.
- Facilitate inter-agency cooperation and coordination.
- Promote the establishment of "intelligence-led policing", underpinned by analysis and information processing where intelligence dictates strategic direction.
- Establish or strengthen democratic oversight mechanisms, setting operative parameters to enhance security services' legality, legitimacy and effectiveness in compliance with international human rights standards.
- Conduct an analysis of the historical and social background of criminal groups, which may expose long-standing structural weaknesses of the State.
- Consider sources of analysis and recommendations outside of intelligence and security services, such as independent think tanks, academia and civil society during policy-making.
- Establish an arrangement for monitoring the flows of small arms and light weapons.

## Operational measures

- Promote proactive investigation aimed at intervention before crimes are committed, by targeting particular criminals or planned criminal activities. This includes crime pattern analysis, general profile analysis, crime control method analysis and risk assessment analysis.
- Draft and implement legal instruments that provide police with the necessary powers to collect and use information and intelligence, in line with international human rights standards and with appropriate safeguards.
- Grant adequate powers to law enforcement and judicial authorities entrusted with investigation, including the authority to detain suspects; seize property as evidence; search for evidence in premises and on persons; require samples, such as photographs, fingerprints and DNA; run identification procedures; interview witnesses and victims; retain personal/confidential information; use technical/personal surveillance and other intrusive means of observation; work undercover or use informants; protect and relocate witnesses; undertake otherwise illegal activity, such as possess illegal substances; force entry to property; and monitor illegal Internet traffic.
- Enhance investigative skills and standards in specialist areas, such as financial investigation, cybercrime, and interviewing techniques.
- Ensure the improvement of identification procedures, such as the use of photofit, photo identification and identification parades.

## Synergies

Use of intelligence to combat crime should be considered a fundamental element of police reform, with greater importance accorded to preventive approaches within law enforcement operations. International cooperation and interagency coordination is indispensable for collecting strategic information. While new legal frameworks may be adopted in support of these efforts, capacity building is also essential to generate the know-how in investigation and data analysis, because these constitute the backbone of an intelligence-led culture.

### Box 6. Joint Planning Cell

Afghanistan, the Islamic Republic of Iran and Pakistan are part of the UNODC-facilitated Triangular Initiative – an attempt to enhance drug control capacities within the three countries. Since the initiative was developed in 2007, trust and confidence-building measures as well as operational activities were set in motion through an action plan that aimed to progressively step up the level of counter-narcotics enforcement cooperation and coordination among the three countries. A dedicated intelligence body, the Joint Planning Cell (JPC), was set up in Tehran in February 2009, and has been instrumental in planning and carrying out regional operations to counter the trafficking of drug and chemical precursors. The approach

adopted was and is realistic, incremental and long term in the prospects of forging trust and improving cross-border cooperation. UNODC has been facilitating periodic consultations to bridge the deep gap in trust among the three member States, promoting information exchange and encouraging joint operations against drug trafficking networks operating in the region. More than eight tons of illicit drugs have been seized (with the arrest of several drug traffickers) in the course of seventeen operations planned and coordinated by the JPC since 2007. This demonstrates how intelligence and relevant coordination among countries in a region affected by large volumes of illicit trafficking may be an effective area for reform to deal with TOC and regional instability. The Triangular Initiative has expanded to the areas of development and drug use prevention. Currently the initiative and dedicated intelligence centre is being connected to other intelligence centres, such as the Central Asian Regional Information and Coordination Centre (CARICC), and Gulf Criminal Information Centre (GCIC).

#### 6.4. Linking Judicial System Reform and SSR to Combat TOC

Cooperation between the judiciary and the security sector is vital to counter TOC. The judiciary's many components, including judges, prosecutors, investigators, courts and legal aid/defence, are all critical in upholding the rule of law, stabilizing the balance of power, and enhancing public confidence and trust in the government. Moreover, an efficient and effective court system that enables the fair, appropriate, and prompt adjudication of criminal cases forms an integral part of a functioning criminal justice system, and plays a critical role in tackling TOC.

Where such adjudication does not exist, miscarriages of justice will damage the integrity of criminal justice systems and undermine public confidence. An effective court system will be based on respect for human rights and the rule of law, adhering to the principles of independence, impartiality, accountability, and proper use of discretion by judges and prosecutors. Equally important is sufficient public understanding of the system and the government's capacity to meet the demands of increasingly complex criminal caseloads. The international community is recognizing the growing links between TOC, terrorism, corruption and other criminal justice challenges.

To enhance trust in the criminal justice system, it is particularly important that crimes committed by security personnel are identified, prosecuted and adjudicated in a fair, effective and transparent manner. In addition, where there is a history of abuse of power and lack of democratic control and oversight over the security sector, enhancing the operational effectiveness of security services without strong judicial oversight may exasperate pre-existing tensions and reinforce underlying root causes of TOC.

#### Stakeholders

The judicial system includes the central roles played by courts, judges, prosecutors, legal defence and legal aid providers (OHCHR, 2003).<sup>15</sup>

## Strategic measures

- Based on a detailed analysis of the role that the security sector plays in countering TOC, SSR strategies and plans should include clear provisions related to that role and the expected results to be delivered through judicial reform.
- Ensure that the justice sector is adequately represented in SSR coordination bodies, including in a country's national security council.
- Support the development of witness/victim protection programmes. These are particularly pertinent due to the reach of organized crime networks.
- Ensure witness/victim protection, especially for women who report cases of sexual and gender-based violence and trafficking, and in particular where security services have played a role.
- Expedite high-profile trials relating to organized crime – especially where the security services have been involved – to enhance trust in the justice and security sectors.
- Establish separate units to investigate and prosecute cases relating to specific organized crimes, such as drug trafficking and distribution.
- Support whistle-blower legislation in line with international best practices and provide training for justice and security providers.

## Operational measures

- Legislative, constitutional and related reforms to enable/enhance judicial and prosecutorial integrity and independence, including while ensuring that the use of prosecutorial discretion is monitored and accountable to minimize the risk of corruption.
- Improve operational capacity via improved case screening and caseload management, and through systematic investigations.
- Develop the professional and administrative skills necessary to meet the demands of increasingly complex criminal caseloads.
- Develop the capacity of the prosecution service to plan, implement and manage change.
- Improve prosecution responsiveness through human and physical resource management.
- Enhance the coordinated response to issues confronting the criminal justice system, such as prison overcrowding and pre-trial delay.
- Provide improved access to justice, particularly for victims of crime – for example, through the creation of a specific legislative framework for protection and compensation.

## Synergies

Synergies are realized when criminal justice agencies coordinate their activities at national, regional, and local levels. These effects can be strengthened by the stimulus of ad hoc working groups or formal commissions. The integrity and independence of the judiciary, and the public perception thereof, is inseparable from the integrity of judicial processes. The extent to which judges uphold international standards and norms in conducting criminal proceedings reflects upon the integrity of those judges as well as upon the court and the system of justice. This is equally true of prosecutors.

## 6.5. Police Reform

The responsibility for enforcing law and order is usually shared among a number of law enforcement institutions, making them the primary gatekeepers of justice as well as the most visible element of the criminal justice system. As a result, they directly affect the general public's trust in the security sector.

Effective policing must integrate human rights obligations at strategic, operational and tactical levels, and reflect integrity, oversight and accountability. These are elements essential for the rule of law, community safety and an environment conducive to sustainable development. Repressive police forces open to corruption and perpetrating human rights violations, by contrast, not only fail to protect communities from crime and violence, but also create a climate of lawlessness fertile to crime and to its social acceptance, leading to conflict and instability. In extreme cases, police elements become enmeshed in the illicit activities they should be fighting. The police must be enabled to serve their communities effectively and protect them against TOC while upholding international standards on human rights and criminal justice principles (OHCHR, 1997). At the same time, strong efforts must be made to minimize their infiltration by criminal groups.

### Strategic measures

- Review police structures, strategic management, procedures, capacity and principles, and develop proposals for reform that are aligned with the overall TOC strategies and that take political, social and economic factors into account.
- Ensure that reviews and assessments of the police are undertaken as part of broader security sector reviews to ensure clear delineation of roles and responsibilities, in particular as they pertain to TOC and cross-border cooperation.



- Regulate the distinct roles of the police and military in dealing with internal security, with rigorous democratic oversight. Pay specific attention to the regulation and accountability of military that are charged with police duties, including gendarmerie and private security forces.
- Ensure that the use of force is regulated in line with international standards in all law enforcement institutions.
- Promote the maintenance of continuous working contacts between national stakeholders and international counterparts that are aimed at building trust and improved cooperation, to foster common risk assessments; harmonize goals and strategies; enhance and coordinate deployment of resources; and enhance overall information exchange.
- At the national level, support and foster information sharing and coordination among law enforcement authorities, including border protection, patrol police, and financial investigators.

### Operational measures

- In a post-conflict State, support positive vetting of police officials to ensure they were not previously implicated in human rights violations, and set up performance review processes.
- Ensure that all law enforcement personnel are trained in the different categories of human rights as well as in the national and international tools of protection. Emphasize command and control and responsibility for human rights in law enforcement operations.
- Engender respect for relevant international standards, such as the United Nations Criminal Justice Standards for United Nations Police and other, similar sets of principles. Ethical police and law enforcement training should be implemented as an essential component of all professional police training.
- Improve the working conditions of the police. Police involvement in TOC generally coincides with low levels of prestige and remuneration, which leads to the recruitment of officers of low education and integrity. Support the pursuit of excellence in police institutions throughout processes of recruitment, vetting, training, deployment, oversight, accountability and transparency in promotion and remuneration.
- Regularly and transparently carry out reviews of the impact of law enforcement operations to counter TOC with regard to human rights, in order to ensure accountability and non-repetition of negative impacts.
- Provide proper hardware, including cars, petrol, computers and weapons that can be sustained over time to match and overcome the capacity of TOC for technological adaptation. The availability of new technologies (both

hardware and informatics means) requires specific training to ensure that personnel are familiar and comfortable with them.

- Develop specialized capabilities (e.g. to counter human trafficking, precursors smuggling, organized crime, illicit use and distribution of firearms) to promote effective links with other law enforcement agencies and national legal capabilities.
- Promote knowledge of the available international best practices to combat TOC.
- Bridge the gap between police and the community by engaging and employing community structures, including civil society, in a partnership approach in order to identify and respond to the problems of crime and disorder that affect local neighbourhoods.
- Organize confidence-building courses at schools to create positive perceptions of the police, as devoted to serving and protecting, from the very earliest stages of education.

## Synergies

Police reform takes place within a wider structural reform of the penal system, and may fit together with new legislation and newly foreseen roles and regulations for all criminal justice actors. Particularly in pursuing policing that is based on consent and prevention, greater integration with different security actors is crucial, with information gathering and intelligence forming the backbone of any operation. In addition, police reform requires specific capacity building in normative and technological terms, to create the know-how needed to tackle specific manifestations of TOC.

### Box 7. Macedonia's regulation of the National Rapid Deployment Unit

Paramilitary police units increasingly bridge the gap between police and the army in response to the growing level of violence in many countries affected by TOC. Their potential for defusing hostilities and their public perception as an incorruptible élite validate these bodies as legitimate instruments to combat TOC, provided they are placed in an integrated framework and engaged in partnerships linking them with public accountability institutions, other security and justice providers and local accountability structures. A best practice in this case is represented by Macedonia's critical review and better regulation of the national Rapid Deployment Unit (RDU), a unit of the Macedonia Police Service (MPS). In an effort to improve the professional competencies of the RDU and its compliance with international standards and norms of policing, study tours were offered for RDU personnel to learn how other countries address public order. In addition, the MPS has made available international experience and good practices to RDU staff during several training sessions in Macedonia. As a result, the RDU has become a more open, transparent, accountable and professional unit that is viewed as an integral part of the police organization.

## 6.6. Prison Reform

Imprisonment and the preferred subsequent processes of rehabilitation and reintegration can be regarded as the final stages of the criminal justice process. This requires the balancing of its twofold purpose: to restrict convicts from committing further crimes during incarceration; and to facilitate reintegration into society by addressing underlying issues that have contributed to the criminal conduct. A balance between retribution, security and rehabilitation is even harder to strike in managing TOC criminals, due to the seriousness of their crimes and their membership in powerful networks that may not allow defection. These criminal groups may even be able to infiltrate prison administrations. Disengaging individuals from criminal structures is complicated when the latter form part of a broad sub-culture, or may retaliate by targeting families if abandoned. Furthermore, TOC groups may be able to corrupt and even control sections of prisons, allowing them to conduct business from within and “contaminate” prison populations, which then become recruitment pools. All of this suggests the importance of balancing retribution and rehabilitation, while engineering prison management and inmate distribution in consideration of the potential influence of TOC (OHCHR, 2005).<sup>16</sup>

### Stakeholders

Gearing prison reform to better serve its function within the criminal justice system requires the involvement of a broad array of actors. These include the ministries of justice, interior and health, as well as senior prison service officers; the judiciary; national human rights institutions; prison inspection bodies (*e.g.* lay monitoring boards), national preventive mechanisms created under the Optional Protocol to the Convention against Torture (OPCAT); regional mechanisms such as the Special Rapporteur on Prisons and Conditions of Detention in Africa of the European Committee for the Prevention of Torture; law society or bar associations; NGOs working on criminal justice matters; women’s representatives; and donor organisations working on the criminal justice sector. This also includes United Nations entities such as corrections and human rights units in peacekeeping missions, the United Nations Office of the High Commissioner for Human Rights (OHCHR), UNODC, the United Nations Development Programme (UNDP), and the Sub-Committee for the Prevention of Torture (SPT).

### Strategic measures

- Uphold the rule of law in prisons and ensure accountability to the community, including by ensuring transparency and independent monitoring.
- Support oversight of the prison system, independent of the ministry and government concerned.

- Anchor prison services in relevant international human rights principles, including through the integration of relevant international standards into prison administration and by aligning national policies and legislation with international standards (Annex IV).
- Develop strategies and mechanisms for cooperation among the ministries of justice, interior, labour, social welfare and health, as well as police agencies, especially the agencies responsible for managing prisons.
- Promote knowledge of the utility of sanctions alternative to imprisonment as a valid solution to overcrowding (Annex V).
- Adopt legislative and structural reforms enabling the transfer of prison services, particularly the management of pre-trial prisoners, from ministries with policing or military functions to a dedicated prison management ministry.
- Promote and implement restorative justice mechanisms.
- Ensure compliance with international standards on the use of force and coercive measures in prison management, and ensure the protection of groups in a situation of vulnerability – including female prisoners – and prioritise prevention and response to sexual violence against women or men.
- Strengthen mechanisms of coordination among criminal justice agencies, as well as between prison authorities and social welfare and/or probation services.

### Operational measures

- Distribute inmates so as to disrupt the formation of networks and minimize prison population contamination by TOC criminals.
- Rigorously train and oversee the conduct of prison guards, ensuring criminal and other accountability for personnel who commit human rights violations or engage in corruption.
- Ensure the classification and separation of prisoners, including special needs prisoners, in line with international standards.
- Devise witness and cooperating offender protection schemes to enhance the sharing of critical information; provide incentives for collaboration with the authorities; and guarantee security for criminals “opting out”. Extend the support to those criminals’ families, including potential relocation, and ensure the safety of women who were associated with them before the arrest.
- Enhance the rehabilitative aspect of the prison system, and advocate the benefits of rehabilitation-based approaches in addressing underlying factors, so as to avoid further criminalisation and patterns of reoffending.
- Promote social reintegration of offenders through moral, vocational, educational – and, with regard to national security related offences, de-radicalisation – activities in prisons, including counselling, treatment for addiction, and referral

to educational or personal development centres. Design special projects to improve support for special categories and groups at risk.

- Encourage repentant attitudes among prisoners, trading disengagement from TOC for more lenient judgements, early or conditional release, probation and parole.

## Synergies

Ultimately, prison reform rests upon adoption and implementation of legal instruments based on international standards and that respect emerging trends in management and effective rehabilitation. Strengthened intelligence to classify prisoners enables the engineering of prisoner distributions that is less likely to result in TOC contamination, while harmonized crime prevention policies provide opportunities that minimize the risk of former convicts rejoining illegal activities.

## 6.7. Combating Corruption and Money Laundering

TOC is a profit-oriented activity, and two key enablers lower criminals' risks and management costs: money laundering and corruption. Money laundering is the process through which crime does pay. Laundered funds are typically sourced from illicit activities such as organized crime, drug and weapons smuggling and human trafficking. By rolling illicit funds through legal financial mechanisms, criminals can disguise the source of their funds and use the proceeds of their activities to expand operations, increase their economic power and even obtain political power. In addition to funding corrupt individuals and their networks, the illicit proceeds of money laundering have also been used to help finance further organized crime, armed groups in conflicts, piracy, and terrorist activities. Corruption is the key phenomenon through which organized crime extends its influence over politicians, judicial and prosecutorial authorities, and law enforcement and custom authorities, among others. It is crucial to have within SSR a coherent strategy to curtail the availability of financial resources to TOC – one that targets money laundering, fiscal havens and the appropriation of public funds, while providing for the confiscation of assets, their recovery and reinvestment. At the same time, institutions should be supported in their efforts to eradicate corruption, with all parts of society involved in its rejection.<sup>17</sup> Measures addressing money laundering and corruption are contained in the UNTOC and the UNCAC.

## Stakeholders

The complex and varied uses of money laundering and corruption as facilitators for TOC call for a vast list of stakeholders to be involved in developing measures

aimed at combating these phenomena. These include the ministries of justice, the interior and economy/finance, and the revenue department, anti-corruption authority, financial sector supervisor, financial intelligence unit, prosecution office, police, customs and taxation department, and parliamentary oversight bodies with a financial mandate. The private sector too can prove valuable, in setting and adopting standards for transparent and ethical business practices. Civil society organizations, watchdogs and think tanks have an important role as well, gathering information and exposing malpractice and corruption.

### Strategic measures

- Fully implement the provisions of the UNTOC and UNCAC.
- Comply with recognized international standards to combat money laundering and bring domestic legal and regulatory frameworks into compliance with the relevant provisions contained within: a) key United Nations conventions – such as the CITNDP, the Convention against Transnational Organized Crime, the Convention against Corruption, and the Convention for the Suppression of the Financing of Terrorism; b) key United Nations Resolutions – such as United Nations Security Council Resolutions 1373 (2001) and 1617 (2005) and United Nations General Assembly Resolutions 60/288 and 66/177; and c) other recognized standards, including the 40 Recommendations of the Financial Action Task Force (FATF).
- Develop and implement a comprehensive national strategy to fight corruption that includes concrete goals and benchmarks that are regularly reviewed and updated.
- Criminalize corruption and money laundering by establishing specific criminal offences that cover a wide range of acts of corruption and money laundering.
- Implement preventive policies that push for and enhance transparency in the financing of election campaigns and political parties.
- Establish anti-corruption bodies with broad mandates in prevention and investigation.
- Increase use of intelligence to counter money laundering. In particular, regional and international cooperation on Anti-Money Laundering (AML) should be informed by national risk assessments relating to money laundering and the financing of terrorism.
- Prioritize the implementation of AML instruments based on international standards, such as recommendations by UNTOC, UNCAC and the FATF.
- Identify potential proceeds from TOC through suspicious financial transaction (SFT) reports and, where applicable, cash transaction reports.

- Demonstrate the national benefits ensuing from AML policies beyond the fulfilment of international obligations.
- Prepare AML national risk assessments to inform policy-makers, prioritise AML requirements, and allocate human and financial resources to higher risk areas.
- Generate social awareness about the risks and costs of money laundering and corruption – by informing politicians of the risks posed by money laundering and its links to organised crime – and build political will, creating cause champions at the senior political level.
- Promote the involvement of non-governmental and community-based organizations, so as to raise public awareness of corruption and what can be done to combat it.

### Operational measures

- Enhance cooperation among States in the fight against money laundering and corruption by using current international bodies and legal instruments, such as UNTOC and UNCAC, which facilitate assistance requests between signatories. This will allow for greater leeway in investigation, prosecution and the subsequent extradition of offenders.
- States must seek to expand their extradition treaty network and/or adjust their legal frameworks to facilitate extradition of those guilty of money laundering and corruption offences. (This also has a positive effect on prison populations.)
- Written national AML policies should clearly define the competencies and responsibilities of AML-connected authorities, ensuring they are empowered to interact and exchange information where appropriate.
- Enhance cross-border cooperation on specific cases between the specialised police units and Financial Investigation Units (FIUs) of other ministries, both to share information and to conduct joint operations.
- Introduce mechanisms to promote national integration, inter-agency coordination and information sharing both at policy and operational levels, so as to provide leadership by example, to provide direction and support to implementing agencies, and to review implementation rates.
- Promote regional FIU-to-FIU cooperation, and encourage national FIUs to become members of the Egmont Group of countries.
- Assist countries in signing AML Memoranda of Understanding, especially to facilitate the exchange of information on SFTs.
- Enhance the cooperation among financial institutions. Improved cooperation improves data collection and the future ability for law enforcement officials to track and close down TOC operations.

- Ensure sufficient due diligence with regard to customers, to enable the institution to build a profile of a customer (the ultimate beneficial owner of an account or legal entity) and expected activity, to monitor the activity and to report suspicious or unusual actions that do not conform to the profile.
- Improve the level of reporting from financial institutions, and ensure that they adhere to international standards. Reports and other intelligence from these sources should be collected, shared as appropriate with other domestic and international authorities and analysed so as to form the basis for enforcement action.
- Ensure that reasonable measures are undertaken to determine whether a customer or beneficial owner is a foreign or domestic Politically Exposed Person (PEP) or a person who is or has been entrusted with a prominent function by an international organization. The requirements for all types of PEPs should also apply to family members or close associates.
- Build capacity to conduct financial investigations by developing investigation skills, fostering close working relationships between police and prosecutors, and promoting information exchange among States.

### Synergies

Success in these areas is linked to success in most areas of SSR, including border management, policing and prevention. Often, policies to combat money laundering and corruption and policies in these other areas are mutually reinforcing. As with every other key area of intervention: intelligence plays a fundamental role – here, in identifying illicit cash flows and laundering businesses; adoption of legal instruments is necessary to provide the framework needed for action; and prevention ensures financial efficiency and sustainability.

## 6.8. Border Management

Poorly regulated and managed national borders that employ ineffective practices and procedures provide favourable conditions for the trafficking of small arms, ammunition, illicit drugs, contraband and people, including children. Strategies for effective management of national land, sea and air borders that take into full account the diverse manifestations of TOC are therefore critical for long-term stability and development. Efforts to find, detect and prevent TOC are often frustrated by underinvestment in the training and technical capacity of State agencies, the willingness of crime groups to use force, and the susceptibility to corruption of poorly paid personnel in border agencies such as customs, immigration and police.



## Stakeholders

By its very nature, border management involves a wide range of national and international actors. Management of the flow of goods and people across borders falls mainly within the remit of the border guards and customs and immigration officials, with the additional participation of the ministries of trade and the interior, as well as their corresponding international partners. Depending on the structure of a given government, other official actors may be included – such as the coast guard, port authorities and private carriers.

## Strategic measures

- Trade facilitation may be a significant entry point, as raising revenue is often the primary motivation for customs reforms. The protection of women actively involved in cross-border trading may also prompt intervention, given the particular risks they face in many contexts. Likewise, regional cooperation within the context of regional development can provide an important incentive for reform.
- Advocate for compliance with international legal obligations, standards and norms in border management, as a point of departure in alerting government to the sensitivity of border areas.
- Identify champions of change and willing interlocutors within departments, ministries and port authorities (these may not be official liaisons), to help drive change and raise awareness of the impact of TOC.

## Operational measures

- Strengthen Forward Operating Bases (FOBs). Accessibility to remote border regions is very difficult where national infrastructure is of poor quality and cannot be constantly monitored. Creating interconnected and fully equipped FOBs with border and customs units improves operational and strategic oversight over specific regions. It also represents an opportunity to use cross-border intelligence more efficiently.
- Widen the concept of border management and promote joint patrolling. In regions with long porous borders, TOC exploits the fact that only a fraction of people cross at designated border crossings. Redefining frontline borders to include airports and (especially) maritime borders can ensure that previously underfunded government agencies receive better equipment and training, and are better able to gather the intelligence needed to counter structural TOC.
- Promote inclusion, coordination and cooperation among port/airport authorities, border and customs agencies, and private carriers to improve

the gathering and sharing of intelligence on TOC, so as to improve law enforcement and drive regional cooperation.

- Reduce cash as a common form of remuneration for customs and border officials. Automated wiring of salary payment for officials encourages trust within organisations and reduces the susceptibility to corruption or “turning a blind eye” to TOC activities.
- Train border management officials on effective application of the international small arms control standards.

## Synergies

Border management offers an opportunity for improved inter-agency cooperation, in conjunction with overlapping reform of the police and judiciary. Synergies will emerge from improved border monitoring and communications among these agencies, in the form of superior intelligence and the rationalisation of resources.

### Box 8a. UNODC-WCO Container Control Programme

The Container Control Programme (CCP) was initiated in 2003 by the World Customs Organization (WCO) and UNODC to assist law enforcement agencies in identifying and inspecting high-risk containers. The programme improves inter-agency cooperation, as well as capacities to prevent the use of sea containers for illicit purposes, such as trafficking of drugs, weapons, explosives or hazardous waste. Seaports are particularly vulnerable to TOC activity, given the sheer volume of container traffic, a lack of resources, inter-agency mistrust, complex port processes and systems, and other factors that are purposefully exploited by criminal organisations. At the heart of the CCP is the creation of inter-agency Port Control Units (PCUs), comprised of analysts and search teams from different law enforcement agencies (e.g. customs, police, immigration). PCU personnel are trained and equipped to work together to systematically target high-risk containers using risk analysis and other proactive techniques with minimum disruption to the free flow of legitimate trade. ContainerComm is crucial in improving international cooperation: it is an Internet-based, secure, multifunctional communication system developed by the WCO Secretariat within the framework of the CCP. The purpose of the system is to facilitate the encrypted exchange of sensitive information – particularly regarding the movement of suspected high-risk containers – among the PCUs, other authorized users and the eleven Regional Intelligence Liaison Offices (RILOs) of the World Customs Organization. Since operations began at the port of Guayaquil, Ecuador in 2006, the PCUs have intercepted more than 70 freight containers and seized precursor chemicals, almost 25 metric tons of cocaine, several shipments of endangered/protected species, and other smuggled goods.

### Box 8b. UNODC-WCO-INTERPOL Airport Communication Programme (AIRCOP)

AIRCOP was initiated in 2010 in order to build drug-interdiction capacities at selected international airports in 25 countries in Africa, the Caribbean and Latin America. To that end, the project establishes inter-agency Joint Airport Interdiction Task Forces (JAITFs) and connects

- ▶ them to international law enforcement databases and communication networks, to enable the transmission of operational information aimed at intercepting illicit shipments to other international airports in real time. The project also promotes intelligence and information sharing among services at national and international level, as well as an intelligence-led approach to countering drug trafficking. Several rounds of training and mentoring sessions have been held, and operations called “COCAIR”, led by the WCO, resulted in important seizures of chemical precursors, cannabis, cocaine, heroin, cash, weapons and artwork. JAITFs also carried out seizures independently. The AIRCOP version of the Customs Enforcement Network Communication Platform of the WCO (CENcomm, which links joint teams of relevant agencies to exchange information on international drug trafficking, such as risk indicators, passenger profiles and seizures) has been established and is operational at all JAITFs.

## 7. RISKS AND OPPORTUNITIES

Steps to integrate measures countering TOC into SSR processes face risks and opportunities. The success of integration therefore depends in part on whether the risks are mitigated and opportunities seized.

### Risks

#### Lack of national and regional coordination and ownership

TOC affects the implementation of SSR strategies directly, and addressing it should be part of national policy-making rather than a task divided according to the specific work of various ministries. TOC contributes to conflict within States, while its regional and even transcontinental nature generates cross-border issues that may escalate into violence if appropriate action is not taken at the regional level. Therefore, national and regional ownership and coordination of SSR efforts in relation to TOC are crucial to reform that is sustainable and effective. This also requires that sufficient national, regional and international resources be allocated for these efforts.

#### Insufficient understanding of emerging crime trends and the modus operandi of criminal groups

TOC thrives in the absence of effective countermeasures. However, it is difficult for relevant authorities and United Nations agencies to facilitate the inclusion of TOC measures in SSR when there is insufficient understanding of the way criminal groups operate within a State or region. As these groups rapidly emerge, adapt and evolve – as a consequence of changing crime trends as well as in response to changing government policies – SSR strategies need to be driven by relevant and accurate knowledge of TOC.

### Taboos about certain crimes

Crimes such as sexual and gender-based violence are important indicators for the presence of TOC in a society, but society may view these crimes as taboo. As a consequence, survivors may be unwilling to come forward if no legal support is available, or if doing so will put them or their families at further risk. This results in many crimes going unreported, especially crimes of violence against women and girls; agencies tasked with activities countering TOC thus lose information important for understanding and responding to the issue. Addressing sexual violence and violence against women should be integral to countering TOC in SSR planning and processes.

### Failure to incorporate human rights

The type of measures established by national authorities to tackle TOC may lead to human rights questions. In this regard, SSR will need to take the principles established by the 2012 Human Rights Due Diligence Policy (HRDDP) into consideration with regard to United Nations support for national security forces. At the same time, differences in legal and judicial frameworks should be taken into account.

## Opportunities

### Possibilities to tackle corruption

The UNCAC, adopted by the international community as the global framework for fighting corruption (170 States now having ratified the Convention), provides an invaluable opportunity for SSR. With the UNCAC Review Mechanism now identifying technical assistance needs, an entry point has emerged to provide country-based integrated programming, as well as delivery of technical assistance, under the SSR umbrella.

### Raising awareness of adjacent topics

Tackling TOC can provide entry points into other policy areas that will improve human security and development conditions, such as drug abuse and the importance of women's groups in society. Also, closer collaboration with local media outlets as well as newspapers is a point of departure for raising awareness about the impact of TOC on the economy, human security and the security sector as a whole. Success stories can create a collective feel of accomplishment that is essential to implementing further policies and empowering the State.

### Champions of change

Empowering champions of change in national ministries and regional organisations that support United Nations policies for integrating TOC sensitivity into

SSR can create an environment geared for progress. That empowerment can also forge future entry points in other areas.

### Private sector involvement

Closer cooperation with the private sector can provide valuable data on illicit activity and its impact on society (possibly by helping establish a matrix for data entry and creating relevant indicators). This is true especially in regions where data accumulation by the State is limited due to a lack of funding or infrastructure. Involving multinational corporations can help push regional policy while encouraging small and medium-sized enterprises on the ground, which in turn could furnish invaluable frontline data.

### Build networks through dialogue

Including a wide range of stakeholders in a series of workshops can foster greater understanding of the impact of TOC on a society, and of how SSR can tackle that impact. This helps establish a coalition of stakeholders that supports progressive implementation of policies to counter TOC on a national and regional level.

## ANNEXES

---

### Annex I – Manifestations of TOC

TOC is a multifaceted phenomenon encompassing a wide array of activities. While each manifestation is different, there are nevertheless commonalities – including illicit profit-making, cross-border activities, and challenges to the security sector – that allow for some common denomination and analysis. The list below describes some of the more common forms of TOC.

#### Illicit goods

##### Drugs and precursors trafficking

Criminal networks supply over 210 million people with illicit drugs worth hundreds of billions of dollars every year. This leads to around 200,000 use-related deaths annually, as well as many more “indirect” victims and significant costs to societies. In addition to the trafficking of drugs, the trafficking of precursor chemicals is a matter of growing concern. For example, transforming raw opium into heroin requires a significant amount of precursor chemicals.

##### Firearms trafficking

The illicit trafficking and misuse of firearms is intrinsically linked to these criminal organizations and networks: as facilitators of violent crimes, as tools to acquire power, and as lucrative trafficking commodities that fuel armed conflicts, crime and insecurity.

##### Environmental crimes

In addition to damaging the environment and diverting an important source of income away from export-oriented countries, environmental crimes such as wildlife and timber trafficking constitute an important funding source for criminal groups.

##### Counterfeiting

Counterfeit products represent approximately 2 per cent of the world trade in goods, with an estimated worth of US\$176 billion in 2007. Apart from the violation of intellectual property rights, bogus products such as fraudulent medicines may pose serious health threats.

#### Illicit services

##### Human trafficking

Approximately 12.3 million men, women and children worldwide have been recruited and transported for different exploitative purposes. The criminal practice of human trafficking can lead to modern forms of slavery and inevitably involves severe human rights violations.

## Migrant smuggling

As the demand for movement far exceeds the possibilities to cross borders legally, an ever growing number of vulnerable people fall prey to smugglers who make huge quantities of money, often at the expense of their clients' safety and human rights.

## Cybercrimes

This new frontier of organized crime can require just one person to steal confidential information, money and identity and to attack online databases, security systems and even physical infrastructures.

## **Infiltration of government or business**

### Money laundering

Money is the prime reason for engaging in almost any type of criminal activity. Money laundering is the method criminals use to disguise the illegal origins of their wealth and protect their asset bases, so as to avoid the suspicion of law enforcement agencies and prevent leaving a trail of incriminating evidence. With an estimated worth of roughly half a trillion US dollars every year, money laundering corrupts the banking sector worldwide and is crucial to the management of criminal business and the financing of armed groups and insurgencies.

### Corruption

Corruption is a complex social, political and economic phenomenon that affects all countries. Corruption undermines democratic institutions, slows economic development and contributes to governmental instability. Corruption attacks the foundation of democratic institutions by distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only reason for existing is the soliciting of bribes. Economic development is stunted because foreign direct investment is discouraged and small businesses within the country often find it impossible to overcome the "start-up costs" required due to corruption.

### Maritime piracy

Maritime crime poses a serious threat to the safety of seafarers, international trade and regional stability. As over 90 per cent of global trade is carried out by sea, the economic effects of maritime crime can be crippling. Maritime crime includes not only criminal activity directed at vessels or maritime structures, but also the use of the high seas to perpetrate transnational organized crimes such as the smuggling of persons or illicit substances. Maritime crimes such as piracy and drug smuggling can have devastating human consequences.

## Annex II – Summary of UNTOC Conventions and Protocols

### The United Nations Convention against Transnational Organized Crime (UNTOC)

The Convention recognises that the globalisation of crime requires a global response. It is designed as a tool to combat transnational organized crime and serious crime in its various manifestations. Through articles 5, 6, 8 and 23, the Convention asks the signatories to criminalize participation in organised crime groups, money laundering, corruption and obstruction of justice. Through other articles (including articles 13, 16, 18 and 19) the Convention seeks to ensure that the State parties work together to address the challenges posed by TOC.

Through its Protocols, which are to be interpreted together with it, the Convention addresses three additional areas where transnational organised crime is particularly rampant.

### Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

This Protocol is aimed at preventing and combating trafficking in persons, with particular attention paid to women and children. Article 5 calls on States to treat trafficking in persons as a criminal offence. At the same time, the protocol aims to protect and assist the victims of trafficking, while ensuring full respect for their human rights. Finally, the protocol also looks to promote cooperation among States in order to meet these objectives.

### Protocol against the Smuggling of Migrants by Land, Sea and Air

This Protocol is aimed at preventing and combating the smuggling of migrants – as well as promoting cooperation among States to that end – while protecting the rights of the smuggled migrants. Article 6 asks each State to consider smuggling of migrants a criminal offence along with the creation of false documents that enable such acts. Article 10 calls on signatories to exchange information, including on known or suspected embarkation and destination points and on the identities of those involved in smuggling of migrants.

### Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition

This Protocol is aimed at promoting, facilitating and strengthening cooperation among States to prevent, combat and eradicate the illicit manufacturing and trafficking of firearms, their parts and components and ammunition. Article 5 guides States in treating the illicit manufacturing and trafficking of firearms as criminal offences. Article 6 outlines steps for States to confiscate, seize and dispose of illicit firearms. The Protocol also provides a solid foundation for establishing comprehensive regulatory and control frameworks for licit firearms, which help shield legal transactions from illicit trafficking, and for enhancing investigation and prosecution of the latter.



## Annex III – TOC and Peace Operations

The relationship between TOC and peace operations is not always straightforward. Organized crime is often deemed a spoiler: it single-handedly undermines peace processes as it thrives in circumstances of political instability and social turmoil, and has a vested interest in their continuation. Illicit business in particular often helps to sustain the material basis for war and reduces the incentives for peace, shrinking the space for conflict resolution.

There are many examples of links between crime and conflict, from disparate regions of the Caucasus to Southwest Asia, the Middle East to West Africa, the Balkans to the Andes. They include illicit exports (*i.e.* drugs, timber, diamonds) funding combatants; the smuggling of weapons and other supplies; sanctions evasion and embargo busting; theft; and the diversion of humanitarian aid.

However, there exists a growing body of literature grounded in recent history indicating that, somewhat awkwardly, TOC may not always be an enemy to peace operations, and peace operations may not always act to curb crime. Indeed, black market activities can supplement inadequate humanitarian aid during wartime, helping to sustain the civilian population. In addition, illicit business may help terminate stalemated military situations through the smuggling of weapons or other resources, or by helping to create the necessary conditions for a negotiated peace.

Conversely, peace operations can have a structuring effect that provides a minimum level of stability and predictability and thereby facilitates illicit business. Likewise, international measures intended to inhibit conflict such as sanctions and arms embargoes can create incentives for smuggling and inflating profits and create economic opportunity for traffickers. Furthermore, peace operations can constitute both a source of supply for TOC (as in the case of theft of relief aid) and a transportation mechanism for illicit business (the use of aid convoys as a cover for smuggling). International personnel involved in peace operations can also become directly complicit in illicit activities as informants, couriers, bribe takers and even customers.

## Annex IV – Core International Human Rights Instruments and TOC

There are ten core international human rights instruments.<sup>18</sup>

- 1) International Convention on the Elimination of All Forms of Racial Discrimination
- 2) International Covenant on Civil and Political Rights
- 3) International Covenant on Economic, Social and Cultural Rights
- 4) Convention on the Elimination of All Forms of Discrimination against Women
- 5) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- 6) Convention on the Rights of the Child
- 7) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- 8) International Convention for the Protection of All Persons from Enforced Disappearance
- 9) Convention on the Rights of Persons with Disabilities
- 10) The Optional Protocol to the Convention against Torture

Each of these instruments is accompanied by a committee of experts that monitors the implementation of treaty provisions by State parties. Some of the treaties are supplemented by optional protocols dealing with specific issues. Each instrument helps counter TOC in different ways – for example, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families contributes against human trafficking while the International Covenant on Economic, Social and Cultural Rights specifies economic rights that, if fulfilled, reduce the lure of TOC.

## Annex V – Tools and Instruments to Counter TOC

- The United Nations Integrated Technical Guidance Notes on *Democratic Governance of the Security Sector, Policies and Strategies, Peace Processes, Gender, National Ownership and the United Nations Approach to SSR*. The Guidance Notes are available at <https://unssr.unlb.org/Portals/UNSSR/UN%20Integrated%20Technical%20Guidance%20Notes%20on%20SSR.PDF>.
- The UNODC *Legislative Guide for the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, lays out the basic requirements of the Convention and its Protocols, as well as the issues that each State party must address. The Guide also furnishes a range of options and examples that national drafters may wish to consider as they try to implement the Convention and its Protocol. The guide can be accessed on [www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html](http://www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html).
- Legislators may also be interested in the *Model Legislative Provisions against Organized Crime*. The document can be found at [www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Model\\_Laws\\_and\\_Treaties](http://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#Model_Laws_and_Treaties), and aims to facilitate the review and amendment of existing legislation and the adoption of new legislation by Member States. They are designed to be adapted to the needs of each State, whatever its legal tradition and social, economic, cultural and geographic conditions.
- The UNODC *Handbook on the Crime Prevention Guidelines: Making Them Work*, with its emphasis on how crime prevention strategies based on United Nations guidelines can be embedded and sustained over a period of time, can be a useful reference document in that context. The Handbook can be accessed through [www.unodc.org/documents/justice-and-prison-reform/crimeprevention/10-52410\\_Guidelines\\_eBook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/10-52410_Guidelines_eBook.pdf).
- The UNODC Criminal Intelligence Manuals – for analysts, front-line law enforcement and managers – contain information pertaining to various elements of the intelligence process and can be easy reference points for government officials working in this area. *Criminal Intelligence Manual for Analysts*, available at [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Analysts.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Analysts.pdf); the *Criminal Intelligence Manual for Front-line Law Enforcement*, at [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Front\\_Line\\_Law\\_Enforcement.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Front_Line_Law_Enforcement.pdf); and the *Criminal Intelligence Manual for Managers*, at [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Managers.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Managers.pdf).
- The *Criminal Justice Assessment Toolkit* is a practical guide for those charged with the assessment of criminal justice systems and the implementation of

criminal justice reform. The toolkit can be accessed through [www.unodc.org/documents/justice-and-prison-reform/cjat\\_eng/CJAT\\_Toolkit\\_full\\_version\\_23Mar10all.pdf](http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/CJAT_Toolkit_full_version_23Mar10all.pdf).

- The UNODC *Handbook on Police Accountability, Oversight and Integrity* further elaborates the principles behind police reform processes. The handbook is available at [www.unodc.org/documents/justice-and-prison-reform/crime-prevention/PoliceAccountability\\_Oversight\\_and\\_Integrity\\_10-57991\\_Ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crime-prevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf).
- The *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, available at [www.unodc.org/pdf/criminal\\_justice/Handbook\\_of\\_Basic\\_Principles\\_and\\_Promising\\_Practices\\_on\\_Alternatives\\_to\\_Imprisonment.pdf](http://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf).
- The United Nations Standard Minimum Rules for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment; United Nations Convention against Torture; Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); Rules for the Protection of Juveniles Deprived of Their Liberty; and Code of Conduct for Law Enforcement Officials. It is available at [https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)

UNODC has compiled a compendium of databases, both internal and from regional agencies, which provide links to the international cooperation requirements of many countries, including for all of those States that have ratified the UNTOC. Below is a summary of what each of these agencies does and the geographical area it covers. The links to these can be found at [www.unodc.org/unodc/en/legal-tools/international-cooperation-networks.html](http://www.unodc.org/unodc/en/legal-tools/international-cooperation-networks.html).

#### **UNODC online directory of competent national authorities**

The online directory of competent national authorities provides access to the contact information of these authorities designated under the CITNDP, the UNTOC and the Protocols Thereto. With a view to facilitating communication and problem solving among competent authorities at the interregional level, the directory contains essential information on:

- State membership in existing international cooperation networks
- Legal and procedural requirements for the granting of requests
- Use of the Organized Crime Convention as the legal basis for requests
- Links to national laws and websites
- Indication of requests that can be made through INTERPOL.

All State parties to the Conventions can access the directory, which is password protected.

## ENDNOTES

- 1 The IASSRTF was established by the UN Secretary-General in 2007. It brings together 14 UN departments, offices, agencies, funds and programmes (DPKO, UNDP, UNODC, UNOPS, UNWOMEN, OSAA, SRSG-SVC, UNFPA, OHCHR, PBSO, UNICEF, UNITAR, ODA and DPA).
- 2 UNTOC was adopted through UN General Assembly resolution 55/25 of November 2000. The convention is also called the Palermo Convention, and its three protocols (the Palermo Protocols) are the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Protocol against the Smuggling of Migrants by Land, Sea and Air; and Protocol against the Illicit Manufacturing and Trafficking in Firearms. UNODC acts as custodian of UNTOC and its protocols.
- 3 Organized Crime Convention, article 3. Serious crime is defined as an offence that is punishable by at least four years of deprivation of liberty.
- 4 The concerns expressed by the World Bank's *World Development Report 2011* (World Bank, 2011) now centre on the intermediary roles played by a growing number of post-conflict or fragile States in the global distribution of illicit goods. These countries are primarily the Central Asian Republics (opiates from Afghanistan); Central America and the Caribbean (narcotics and human trafficking from South America, while arms move south from the United States); and West Africa (cocaine and migrants to Europe, as well as financial scams and "blood diamonds"). In all cases, the largest revenues appear to derive from the trade in drugs (Miraglia, Ochoa and Briscoe, 2012).
- 5 In this regard, the recently adopted Human Rights Due Diligence Policy (HRDDP) for United Nations support to non-UN security forces constitutes a key element of the normative framework defining the role and profile of the United Nations on SSR issues.
- 6 As noted by the World Bank Development Report (2011): "a general principle of co-responsibility, combining demand-side and supply-side actions and cooperation between developed and developing countries is lacking". The study explores the ways in which crime and conflict seem increasingly intertwined.
- 7 See also the ITGN on Gender Responsive SSR.
- 8 To facilitate these efforts, UNODC has developed a number of tools on international cooperation which can be accessed here: [http://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#International\\_cooperation\\_tools](http://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html#International_cooperation_tools).
- 9 Also see other legal binding instruments to ratify – such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), etc. – in Annex 4 to the ITGN on National Security Policies (2012).
- 10 A relevant example in this regard is the Political Declaration and the Regional Plan of Action of the Economic Community for West African States to address drug trafficking and organized crime as security threats to West Africa, setting the time frame for legislative reforms in each Member State.
- 11 See also the ITGN on Democratic Governance of the Security Sector (2012), Section 7.4 on Strengthening the Institutional System of Governance.
- 12 See also the ITGN on Peace Processes and Security Sector Reform (2012), Section 8 on Preparing the Case for SSR – Mapping the Context.
- 13 Nevertheless, traditional approaches have tended to focus on influencing the behaviour of people whose behaviour is very difficult to influence - individuals lacking other sources of identity and mobility, and those pushed into business via coercion, addiction or structural violence.

- 14 The following UNODC Criminal Intelligence Manuals contain information pertaining to various elements of the intelligence process, and provide easy reference points for government officials working in this area. All are published by the United Nations Office on Drugs and Crime. For analysts: *Criminal Intelligence Manual for Analysts*, 2011, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Analysts.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Analysts.pdf). For front-line law enforcement: *Criminal Intelligence Manual for Front-line Law Enforcement*, 2010, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Front\\_Line\\_Law\\_Enforcement.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Front_Line_Law_Enforcement.pdf). For managers: *Criminal Intelligence Manual for Managers*, 2011, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Managers.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Managers.pdf).
- 15 See also the *Criminal Justice Assessment Toolkit* mentioned in Annex V at [www.unodc.org/documents/justice-and-prison-reform/cjat\\_eng/CJAT\\_Toolkit\\_full\\_version23Mar10all.pdf](http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/CJAT_Toolkit_full_version23Mar10all.pdf).
- 16 The UNODC approach to prison reform is concisely summarised in the *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, 2007, mentioned in Annex V: [www.unodc.org/pdf/criminal\\_justice/Handbook\\_of\\_Basic\\_Principles\\_and\\_Promising\\_Practices\\_on\\_Alternatives\\_to\\_Imprisonment.pdf](http://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf).
- 17 While corruption had already been addressed under the Transnational Organized Crime Convention, UNCAC expands the means to counter corruption, particularly through criminalization, prevention and asset recovery. For more in-depth information, see UNCAC. [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf).
- 18 The core international human rights instruments are presented in at: [www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx).

## BIBLIOGRAPHY

- CIC (2013), *Responding to the impact of organized crime on governance in developing countries*, Center on International Cooperation, New York University, June, p. 29.
- Cockayne, James (2013), "Chasing shadows", *The RUSI Journal*, 28 April, p. 12.
- Kemp, Walter, Mark Shaw and Arthur Boutellis (2013), *The elephant in the room: How can peace operations deal with organized crime?* International Peace Institute, 30 June, p. 2.
- Miraglia, Paula, Rolando Ochoa and Ivan Briscoe (2012), *Transnational organized crime and fragile states*, OECD Development Co-operation Working Papers, OECD Publishing, Paris.
- OECD (2012), *Think global, act global: Confronting global factors that influence conflict and fragility*, OECD Publishing, Paris.
- OHCHR (1997), *Human rights and law enforcement: A manual on human rights training for the police*, Office of the United Nations High Commissioner for Human Rights, United Nations, New York and Geneva, [www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducationthree.aspx](http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducationthree.aspx).
- OHCHR (2003), *Human rights in the administration of justice: A manual on human rights for judges, prosecutors and lawyers*, Office of the United Nations High Commissioner for Human Rights in cooperation with the International Bar Association, United Nations, New York and Geneva.
- OHCHR (2005), *Human rights and prisons: Manual on human rights training for prison officials*, Office of the United Nations High Commissioner for Human Rights, United Nations, New York and Geneva, [www.ohchr.org/Documents/Publications/training11en.pdf](http://www.ohchr.org/Documents/Publications/training11en.pdf).
- Saviano, Roberto (2006), *Gomorra*, Arnoldo Mondadori Editore, Milan.
- United Nations (2004), *A more secure world: Our shared responsibility*, [www.un.org/secureworld/report2.pdf](http://www.un.org/secureworld/report2.pdf).
- United Nations (2008), *Securing peace and development: the role of the United Nations in supporting security sector reform (A/62/659-S/2008/39)*. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/No8/216/06/PDF/No821606.pdf?OpenElement>.
- United Nations (2012), *Integrated Technical Guidance Notes on Democratic Governance of the Security Sector, Policies and Strategies, Peace Processes, Gender, National Ownership and the United Nations Approach to SSR*. <https://unssr.unlb.org/Portals/UNSSR/UN%20Integrated%20Technical%20Guidance%20Notes%20on%20SSR.PDF>.
- United Nations Security Council (2010), *Statement by the President of the Security Council, S/PRST/2010/4*, 24 February, [www.unic.or.jp/security\\_co/pdf/prst\\_2010\\_4.pdf](http://www.unic.or.jp/security_co/pdf/prst_2010_4.pdf).
- United Nations Security Council (2014), *Resolution 2151 on Security Sector Reform*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/No8/216/06/PDF/No821606.pdf?OpenElement>.
- UNODC (2004a), *United Nations Convention against Transnational Organized Crime and the Protocols Thereto*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf](http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf).
- UNODC (2004b), *United Nations Convention against Corruption*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf).
- UNODC (2007), *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, United Nations Office on Drugs and Crime, [www.unodc.org/pdf/criminal\\_justice/Handbook\\_of\\_Basic\\_Principles\\_and\\_Promising\\_Practices\\_on\\_Alternatives\\_to\\_Imprisonment.pdf](http://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf).
- UNODC (2010a), *The globalization of crime*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/data-and-analysis/tocta/TOCTA\\_Report\\_2010\\_low\\_res.pdf](http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf).

UNODC (2010b), *Criminal Intelligence Manual for Front-line Law Enforcement*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Front\\_Line\\_Law\\_Enforcement.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Front_Line_Law_Enforcement.pdf).

UNODC (2011a), *Criminal Intelligence Manual for Analysts*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Analysts.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Analysts.pdf).

UNODC (2011b), *Criminal Intelligence Manual for Managers*, United Nations Office on Drugs and Crime, [www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal\\_Intelligence\\_for\\_Managers.pdf](http://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Managers.pdf).

World Bank (2011), *World Development Report 2011*, World Bank, Washington, DC.