

International cooperation on combating organised crime

United Nations Convention against transnational organised crime (UNTOC)

- is the first legally binding UN instrument in the field of organised crime
- was adopted by the UN General Assembly in November 2000
- 147 states have signed and 116 have ratified it to date (January 2006).
- Community has ratified following the Council decision on the conclusion, on behalf of the European Community, of UNTOC of 29 April 2004 (2004/579/EC)

International cooperation on combating organised crime

States party to the Convention are required to establish in their domestic laws four criminal offences:

- participation in an organized criminal group;
- money laundering;
- corruption;
- obstruction of justice.

International cooperation on combating organised crime

Objectives of UNTOC

- spells out how countries can improve cooperation on such matters as extradition, mutual legal assistance, transfer of proceedings and joint investigations
- contains provisions for victim and witness protection and shielding legal markets from infiltration by organised criminal groups
- Parties shall develop training programmes and provide technical assistance to developing countries to help them take the necessary measures and upgrade their capacities for dealing with organised crime

International cooperation on combating organised crime

State of Play concerning UNTOC ratification

- has entered into force on 29 September 2003.
- All EU Member States and the European Community have signed the UNTOC. 18 EU Member States and the European Community itself have ratified/concluded it to date

International cooperation on combating organised crime

Council decision of 29 April 2004 on the conclusion, on behalf of the European Community, of UNTOC (2004/579/EC)

- approved UNTOC on behalf of the Community
- decision enables the European Community to be a party to UNTOC within the limits of its competence. Therefore the annex contains a declaration of Community competence concerning UNTOC (as outlined in Article 36(3))

International cooperation on combating organised crime

Community competence concerning UNTOC

- progressively establishing the internal market, comprising an area without internal frontiers in which the free movement of goods and services is ensured in accordance with the provisions of the TEC
- Community has adopted measures to combat money laundering which at present not include measures concerning cooperation between Financial Intelligence Units, detection and monitoring the movement of cash across the borders between EU MS or cooperation among judicial and law enforcement authorities

International cooperation on combating organised crime

- Community adopted measures to ensure transparency and the equal access of all candidates for the public contracts and services markets which contributes to preventing corruption
- Where the Community has adopted measures, it is for the Community alone to enter into external undertakings with third States or competent international organisations which affect those measures or alter their scope. This competence relates to Articles 7, 9 and 31(2)(c) of the Convention

International cooperation on combating organised crime

- Community policy in the sphere of development cooperation complements policies pursued by EU MS and includes provisions to combat corruption. This competency relates to Article 30 of the Convention
- Community considers itself bound by other provisions of the Convention to the extent that they are related to the application of Articles 7, 9, 30 and 31(2)(c), in particular the articles concerning its purpose and definitions and its final provisions
- Scope and the exercise of Community competence are, by their nature, subject to continuous development and the Community will complete or amend this declaration, if necessary, in accordance with Article 36(3) of the Convention

International cooperation on combating organised crime

- UNTOC shall apply, with regard to the competence of the Community, to the territories in which the TEC is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof
- Pursuant to Article 299 this declaration is not applicable to the territories of EU MS in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Convention by EU MS concerned on behalf of and in the interests of those territories

International cooperation on combating organised crime

UNTOC supplementing Protocols

- UNTOC is supplemented by three following Protocols dealing with
 - the trafficking in persons, especially women and children (117 signatories, 95 parties),
 - smuggling of migrants by land, air and sea (112 signatories, 85 parties),
 - illicit manufacturing and trafficking in firearms and ammunition (52 signatories, 47 parties).
- The Trafficking Protocol entered into force on 25 December 2003, the Smuggling Protocol on 28 January 2004 and the Firearms Protocol on 3 July 2005.

International cooperation on combating organised crime

Conclusion of Smuggling and Trafficking Protocols on behalf of European Community

- have been signed by all EU Member States and the European Community. More than half of the EU MS have ratified them to date.

International cooperation on combating organised crime

Community competence relating to the control of the Community's external borders and immigration policy and development cooperation

- scope of Articles 62 (2), 63 (3), 66; Part 3, Title IV TEC and Articles 179 and 181a of Title XX TEC
- Commission (COM(2005) 503 final) submitted to Council its proposal for a Council Decision to conclude the Smuggling Protocol and the Trafficking Protocol on behalf of the European Community on 17 October 2005.
- Commission amended its previous proposal from August 2003 in view of new Community legislation concerning Articles 66, 179 and 181a TEC that was adopted in 2004.
- Negotiations at Council level have started in November 2005.

International cooperation on combating organised crime

Conclusion of UN Firearms Protocol on behalf of European Community

- signed by 17 EU MS and the European Community and 9 EU Member States have ratified it to date.
- Commission's communication on measures to ensure greater security of explosives, detonators, bomb-making equipment and firearms (COM(2005) 329 from 18.07.2005):
 - modification of Council Directive of 18 June 1991 on control of the acquisition and possession of weapons (91/477/EEC) proposed by Commission in 2005, to integrate the appropriate provisions as regards intra-Community transfers of weapons,
 - implementation of Article 10, Firearms Protocol, Commission will present a proposal for a Council regulation on an import/export licensing system for firearms by 2007.

International cooperation on combating organised crime

- Implementation of this UN Protocol covers a wide range of issues such as customs, trade, explosives, internal market and external relations, which the proposal will take due account of
- the Commission will then prepare its Council proposal for conclusion of this Firearms Protocol on behalf of the European Community which will be discussed at Council level
- Following Council agreement, Protocol will be concluded on behalf of the European Community