



**COUNCIL OF
THE EUROPEAN UNION**

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Subject:	DRAFT COUNCIL COMMON POSITION on the United Nations Convention against Transnational Organized Crime (UNTOC), - [...] Monitoring the implementation of the Convention (UNTOC) = Preparation of the 4th Conference of the Parties to the UN Convention against Transnational Organized Crime on 8-17 October 2008
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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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THE EUROPEAN UNION**

Brussels, 11 September 2008

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REV 1**

RESTREINT UE

CRIMORG 98

NOTE

From : Presidency
To : Delegations

Subject : DRAFT COUNCIL COMMON POSITION on the United Nations Convention
against Transnational Organized Crime (UNTOC),
- [...] Monitoring the implementation of the Convention (UNTOC)
= Preparation of the 4th Conference of the Parties to the UN Convention
against Transnational Organized Crime on 8-17 October 2008

Delegations will find attached the draft EU Common Position on a review mechanism in view of the fourth Conference of the States Parties to the UN Convention against Transnational Organized Crime.

The Presidency has amended the text as set out in the Annex following the discussions held at the Multidisciplinary Group on Organised Crime on 14 July 2008.

**DRAFT COUNCIL COMMON POSITION 2008/ /JHA
of ...2008**

**on the United Nations Convention against Transnational Organized Crime, preparation of the
4th Conference of the Parties to the UN Convention against Transnational Organized Crime
on 8-17 October 2008**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 34(2)(a) thereof,

Having regard to the initiative of France,

Whereas:

- (1) the European Union recognises that preventing and combating organized crime is a key objective to be achieved worldwide,
- (2) a number of legal instruments have been adopted by the European Union with a view to developing a comprehensive EU policy to prevent and fight against organized crime,
- (3) it is desirable that the existing international instruments are ratified and effectively implemented by all States without further delay,
- (4) several Member States are parties to the United Nations Convention against Transnational Organized Crime (UNTOC) and its supplementing Protocols while the ratification process is underway in other Member States,

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- (5) the European Community itself is party to the United Nations Convention against Transnational Organized Crime (UNTOC) and to the Protocols on Smuggling and Trafficking of Migrants,
- (6) the Conference of the Parties (COP) at its third session, held in October 2006, in its decision 3/1 agreed upon a set of initiatives to be carried out before the fourth session with a view to enabling the COP to perform effectively the tasks related to information-gathering and review of the implementation as foreseen in Article 32 of the UNTOC,
- (7) the UNODC Secretariat has produced final consolidated reports on the implementation of the UNTOC and its supplementing Protocols¹,
- (8) the development of further information-gathering tools has been initiated by the UNODC Secretariat pursuant to the Recommendations of the Open-ended Interim Working Group of Government Experts on Technical Assistance (Vienna, 3-5 October 2007)²,
- (9) the European Union has developed a significant experience with the establishment of evaluation mechanisms to assess the legal and practical implementation of its instruments by the Member States,

¹ CTOC/COP/2008/2, CTOC/COP/2008/3, CTOC/COP/2008/4, CTOC/COP/2008/5, CTOC/COP/2008/6, CTOC/COP/2008/8, CTOC/COP/2008/9.

² CTOC/COP/2008/7.

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HAS DEFINED THIS COMMON POSITION:

Article 1

1. The Member States shall support [...] initiatives aiming to the establishment of an effective [...] mechanism to assist the COP in the promotion and review of the implementation of the Convention and its supplementing Protocols in accordance with its mandate under Article 32, whilst avoiding duplication of efforts.

2. As a first step, the Member States shall, as appropriate, encourage [...] initiatives with a view to have a voluntary pilot project [...] carried out by the UNODC in collaboration with some volunteering States Parties to review the implementation of the Convention and its supplementing Protocols and to make an accurate analysis of the preliminary outcomes.

Article 2

1. The Member States shall encourage the COP to take into account the outcomes of the two reporting cycles carried out by the UNODC and the preliminary results of the information-gathering tools established pursuant to the recommendations of the Open-ended Interim Working Group of Government Experts on Technical Assistance¹.

2. The information gathered should serve as basis for analysis, for identifying gaps, difficulties, weaknesses and best practices in the implementation process and should enable the establishment of priorities and areas where technical assistance is required with a view to enhancing the implementation. [...]

3. [...]The COP, assisted by the UNODC Secretariat, should seek to cooperate with international and regional organizations with a view to making appropriate use of relevant information and to avoiding duplication of efforts.

¹ CTOC/COP/2008/7.

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Article 3

1. The COP should use the information referred to in Article 2 and gathered through the pilot project, including its methodology, as a basis for discussion [...] with a view to of an effective and reliable [...] mechanism [...] to review the implementation of the Convention and its supplementing Protocols.

The review of the information should be carried out along transparent and objective assessment criteria by experts from State Parties and should involve the assistance of experts from the region concerned by the evaluation.

2. The [...] mechanism shall be based on comprehensive, reliable and homogeneous information concerning the implementation of the Convention with a view to identifying gaps or deficiencies in the implementation of provisions and to enabling an accurate analysis on whether corrective initiatives need to be taken, including through technical assistance.

3. When defining the [...] mechanism and its terms of reference, the COP should take into account the measures already implemented pursuant to the decisions taken in the three preceding COPs as well as the relevant evaluation mechanisms existing in other international and regional fora with a view to benefiting from best practices.

4. The [...] mechanism should be governed by transparent and objective assessment criteria and should ensure balance between effectiveness and administrative burden that it places on States Parties, by making use of existing relevant information and by avoiding duplication of efforts.

Article 4

The Council will adopt further positions on this matter, as appropriate.