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 COMMITTEE ON HEMISPHERIC SECURITY Original: English

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DRAFT HEMISPHERIC STRATEGY AGAINST

TRANSNATIONAL ORGANIZED CRIME

(Considered by RANDOT III, referred to the Committee on Hemispheric Security

for its consideration)

Introduction:

 Transnational Organized Crime (TOC) constitutes a global challenge. Its negative impact is felt throughout the Hemisphere.

 TOC is a complex and dynamic phenomenon. It has multidimensional causes, consequences, and impacts on global security and other areas, including, democratic institutions, economies and financial sectors, the rule of law, and on sustainable development.

 OAS member states understand that to effectively prevent, reduce, and address TOC, they must work together in the spirit of common and shared responsibility, with full respect for human rights and fundamental freedoms, observing the principles of national sovereignty and mutual respect among states.

 This Hemispheric Strategy has been developed by the Committee on Hemispheric Security with the technical support of the OAS Secretariat for Multidimensional Security, in response to the Quito Recommendations for Strengthening International Cooperation in Public Security in the Prevention and Fight against Crime, adopted by the Ministers of Public Security in October 2019, and reaffirmed by the OAS General Assembly in AG/RES. 2950 (L-O/20).

General Objectives:

 Countries of the Hemisphere have universally adopted the United Nations Convention against Transnational Organized Crime (UNTOC), as their framework and international instrument to combat TOC, and have also adopted the Hemispheric Plan of Action against Transnational Organized Crime that focuses on implementing the UNTOC at the regional level.

 This Hemispheric Strategy is designed to guide the OAS member states and its General Secretariat in their implementation of the UNTOC and the Hemispheric Plan of Action against TOC in the region.

Actions:

1. National strategies against transnational organized crime

 Through the adoption of this Hemispheric Strategy, OAS Member states recognize the importance of strengthening national capacity to respond to threats and challenges that TOC poses to their security, prosperity, and democratic institutions.

 Due to its complex nature and multidimensional causes and consequences, confronting TOC in an effective manner requires coordinated action from international, regional, governmental, and non-governmental actors. Coordination should be institutionalized by the development, updating, implementation, and enforcement of national strategies that take into account the concerns, capabilities, and vulnerabilities of stakeholders while promoting strategies for ensuring security and rebuilding peace, administering and imparting justice, reestablishing the rule of law, and reintegrating offenders, all based on respect for freedoms and human rights. Therefore, in developing, updating or implementing their National Strategies, as the case may be, member states should consider the following actions:

1. Employ a comprehensive, all-of-government approach to addressing the multidimensional impacts of organized crime on societies, by strengthening the ability of public institutions and national laws to effectively prevent, address, combat, disrupt and reduce organized crime.
2. Develop and strengthen member states’ capacity to determine and evaluate threats, collecting and analyzing data to inform the development, and implementation of evidence-based policies to effectively address TOC, to allow for measurable outcomes and impacts.
3. Promote cross-sector cooperation, to advance citizen security, with the private sector, academia, nongovernmental organizations, survivors, and civil society to contribute to the improvement of government interventions and strengthen social cohesion and resilience.
4. Build partnerships between different State bodies and all sectors of society to promote a unified national response to organized criminal actors, illegal activities, and the illicit economies they create.
5. Promote and strengthen national, sub-regional, regional, and international cooperation and information sharing to effectively combat organized criminal groups that operate in multiple jurisdictions.
6. Develop and strengthen the capacity of beneficiary States to prevent and respond to threats posed by transnational organized crime.
7. Develop and optimize mechanisms to prevent, identify, deter and disrupt organized crime.
8. Strengthen national capacities to target and pursue criminal financing to disrupt criminal operations and deny criminals the use of the proceeds of crime.
9. Strengthen capacities of the judiciary and law enforcement agencies to effectively investigate and prosecute transnational organized crime.
10. Apply measures to prevent corruption, infiltration, co-option of, and collusion with public institutions by organized crime.
11. Mainstream a human rights and gender perspective in programs, projects, and activities, as well as in agencies and organizations that address transnational organized crime.
12. Adopt policies and implement measures that prioritize combining efforts by law enforcement and creation of opportunities to promote welfare in order to protect marginalized and vulnerable individuals and communities from violence, from victimization, and from recruitment by organized criminal groups.
13. Implement programs to effectively reintegrate offenders based on respect for freedoms and human rights, prevent recidivism, disrupt criminal ties, and reduce risk factors.
14. Legal Instruments

 In confronting TOC, it is essential that States consider carrying out necessary reviews and reforms of criminal provisions, so that both national and international legal frameworks are up-to-date and work in harmony to provide the most effective legal tools required to address the many manifestations, modalities, and adaptations of TOC, frequently occurring across multiple jurisdictions.

 The Hemispheric Plan of Action against Transnational Organized Crime urges member states to ratify, and/or accede to, as the case may be, the following international and regional instruments:

1. United Nations Convention against Transnational Organized Crime (UNTOC);
2. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplemental to the United Nations Convention against Transnational Organized Crime;
3. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplemental to the United Nations Convention against Transnational Organized Crime;
4. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplemental to the United Nations Convention against Transnational Organized Crime;
5. UN Single Convention on Narcotic Drugs (1961), amended by its 1972 protocol;
6. UN Convention on Psychotropic Substances (1971);
7. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988);
8. Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA);
9. United Nations Convention against Corruption (UNCAC);
10. Inter-American Convention against Corruption (1996); and
11. Inter-American Convention on Mutual Legal Assistance in Criminal Matters (1996).
12. Additionally, to complement the instruments listed above, member states that have not yet done so, should consider signing, ratifying, and/or acceding to the following regional and international instruments:
13. Inter-American Convention on Execution of Preventive Measures (1979);
14. Inter-American Convention on Extradition (1981);
15. Optional Protocol related to the Inter-American Convention on Mutual Assistance in Criminal Matters (1993);
16. Inter-American Convention on the International Traffic in Minors (1994);
17. The Convention on Cybercrime of the Council of Europe (Budapest Convention) (2001);
18. Agreement concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area (2003); and
19. The Minamata Convention on Mercury (2013).
20. Finally, member states may consider concluding bilateral, regional, and/or multilateral treaties, agreements and/or arrangements to advance the purposes of this Hemispheric Strategy.
21. Law Enforcement Matters

 In the fight against transnational organized crime, the judiciary, law enforcement agencies, and financial intelligence units are responsible for the identification, analysis, and investigation of criminal networks, combatting illegal trafficking and illicit markets, preventing criminal convergence and collusion, interrupting the transfer of proceeds of crime, and prosecution, adjudication, and sanction of the actors involved in transnational organized crime. In order to support the effective discharge of these duties, the following measures are recommended, among others:

1. Improve or expand, as the case may be, the national capacity for law enforcement authorities to collect, exchange, and analyze data and information on transnational organized crime, as well as establishing the necessary for the sharing of this information (Article 28 of UNTOC).
2. Building and strengthening capacity in criminology and forensic sciences, as well as enactingthe necessary legal framework to allow their effective application in criminal cases.
3. Strengthening the domestic regulatory and supervisory regime to combat money laundering, in accordance with the relevant guidelines recommended by the specialized regional and multilateral organizations against money laundering. (Article 7 of UNTOC)
4. Establishing the necessary processes and building capacity to effectively conduct parallel financial investigations.
5. Establishing the necessary processes and building capacity to conduct information technology and communication-based investigations of transnational organized criminal activities.
6. Adopting or strengthening such measures or capacity as may be necessary to enable the identification, tracing, freezing, confiscation, seizure, and disposal of proceeds, assets, and property derived from, used in, or destined for use in organized crime, as well as international cooperation in this regard. (Article 12 of UNTOC)
7. Strengthening law enforcement officials’ capacities, skills and abilities in criminal analysis, police and prison intelligence, and the use of research and special investigation techniques.
8. Considering the adoption or strengthening of domestic policies on information sharing with regard to criminal records, criminal analysis, criminal investigations, and criminal proceedings.
9. Considering the adoption or strengthening of the national legal framework to allow for the appropriate use of Special Investigative Techniques outlined in the UNTOC. (Art. 20 of UNTOC)
10. Considering the establishment or strengthening of the legal and administrative systems to enhance effective law enforcement cooperation; establishing where necessary, the appropriate channels of communication, agreements, or arrangements. (Article 27 of UNTOC)
11. Considering the adoption and implementation of procedural, legal, and operational mechanisms for the effective protection of witnesses, victims, and law enforcement personnel. (Article 24 of UNTOC)
12. Considering strengthening technical capacity, legislative and policy framework for Border Controls to enhance the prevention and detection of trafficking in persons. (TiP Protocol Article 11)
13. Considering the adoption or strengthening of systems for the issuance and control of travel and identity documents to enhance their integrity and security, and to prevent their unlawful creation and misuse. (TiP Protocol Article 12)
14. Support member states to update and implement new legal frameworks to more effectively respond to and prosecute cybercrime.
15. Training

 The Hemisphere is integrated by member states with varied capabilities and experiences in the fight against transnational organized crime. In order to effectively disrupt the transnational activities of organized criminal groups, member states must cooperate to strengthen the skills and abilities of specialized personnel. For this purpose, the following actions are recommended:

1. Promote victim-centered training and technical assistance that take into account the specific needs of victims to strengthen law enforcement capacity to analyze, investigate, prosecute, and sanction transnational organized crime. (Article 29 of UNTOC)
2. Promote the use of training materials that incorporate lessons learned and experiences from real national and regional case studies.
3. Share experiences and best practices to enhance existing capabilities to prevent, investigate, and prosecute transnational organized crime.
4. Develop and/or support specific training programs–bilateral, multilateral, sub-regional, and regional–which further the goals of the Hemispheric Strategy.
5. Data, Information, and Knowledge Management

 The timely, regular and secure sharing of accurate data, information, and knowledge between and among states is a vital component of every country’s effort to disrupt, investigate, prosecute and punish transnational organized crime. In this regard, the following actions are recommended:

1. Member states designate a National Authority on TOC and notify the General Secretariat in writing.
2. Member states designate a National Point of Contact on TOC and notify the General Secretariat in writing.
3. Member states keep the General Secretariat informed of any updates to designated National Authorities and Points of Contact.
4. The General Secretariat maintains, updates, and publishes a list of National Authorities and National Points of Contact based on information provided by member states.
5. Member states submit UNODC and OAS TOC-related questionnaires on a timely basis to the General Secretariat so that they may be uploaded and shared through the corresponding OAS platforms and databases.
6. Member states ensure that laws and plans (policies, strategies, or programs) on transnational organized crime are shared with the OAS member states, and the General Secretariat will ensure that such databases are easily accessible, streamlined, and consolidated.
7. Member states exchange information, on transnational organized criminal groups, their illegal and legal activities, social networks, their business and logistics structures, modus operandi, and real-time operational information, among national institutions with similar competence.
8. Member states promote the use of new communications technologies and secure information systems, *inter alia,* those provided by INTERPOL, UNODC, and the OAS;
9. Member states document, systematize and share case studies analyzing, investigating, prosecuting, punishing and disrupting transnational organized crime.
10. International Cooperation and Assistance

 The globalization and expansion of criminal activities and of the illicit economies have created a need to develop and strengthen the forms of international cooperation and assistance used by member states. As governments seek to effectively investigate, pursue, and sanction transnational organized crimes, it is important to take steps to enhance coordination mechanisms and partnerships. To this end, it is recommended that:

1. The General Secretariat, when appropriate, pursue cooperation and assistance from other states and international organizations, including multilateral development banks, international financial institutions, and other relevant stakeholders, as well as the UNODC, for the effective implementation of this Hemispheric Strategy.
2. Member states develop cooperation mechanisms among themselves in matters concerning comprehensive assistance to victims of transnational organized crime.
3. Member states adopt, where appropriate and feasible, multilateral and/or bilateral arrangements and/or agreements to foster mutual legal assistance among member states.
4. Member states consider, where appropriate, the conclusion of bilateral or multilateral arrangements and establishing or strengthening the domestic legal and policy framework to allow for joint investigations. (Article 19 of UNTOC)
5. In cases where no bilateral treaty exists, member states consider, where domestic law permits, the use of the UNTOC as a legal basis for the Extradition of persons alleged to have committed offences covered under the UNTOC or its Protocols. (Article 16 of UNTOC)
6. In cases where no bilateral treaty exists, member states consider the use of the UNTOC as a legal basis for mutual legal assistance in investigations, prosecutions, and judicial proceedings in relation to offenses covered under the UNTOC and its Protocols. (Article 18 of UNTOC)
7. Member states promote specific agreements and/or arrangements regarding the seizure and forfeiture of the instrumentalities and proceeds of crime and consider, when domestic law permits, the possibility of signing agreements and/or arrangements regarding the distribution of money or assets seized or forfeited, in accordance with the terms and criteria of Article 14 of the UNTOC.

**Follow-Up:**

 To strengthen and coordinate hemispheric efforts in fighting transnational organized crime and to implement this Hemispheric Strategy, it is recommended that:

1. The General Secretariat strengthen coordination among OAS bodies responsible for issues related to combating transnational organized crime and cooperation among those bodies with the United Nations Office on Drugs and Crime (UNODC).
2. Member states and the General Secretariat continue to implement the Hemispheric Plan of Action against Transnational Organized Crime, and to periodically review said plan as necessary, to ensure its continued responsiveness to the changing dynamics of transnational organized crime in the Hemisphere.
3. The Committee on Hemispheric Security, through the Meetings of National Authorities on TOC (RANDOT) and of the National Points of Contact (PNC-DOT), follow up and monitor the implementation of this Hemispheric Strategy.

**Financing:**

 To ensure that the General Secretariat has the resources necessary to implement this Hemispheric Strategy:

1. Member states should consider providing adequate and regular voluntary contributions to the Specific Fund established within the OAS to combat transnational organized crime.
2. Member states are welcome to encourage and persuade other States and financial institutions as appropriate to join them in efforts aimed at furthering the objectives of this Hemispheric Strategy and the Hemispheric Plan of Action against Transnational Organized Crime.

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