

Slide 1 - Cover

Slide 2 – Introduction

Good afternoon,

My name is Ian Munro

I am the Chief of the Law Enforcement, organised crime and anti-money laundering unit of UNODC.

My Unit provides support to law enforcement authorities who are recipients of technical support through the UNODC programme. Typically we work with police, customs, prosecutors

In my presentation today, I would like to bring to your attention, the operative articles of the United Nations Convention against Transnational Organised Crime and how they can assist authorities combat act effectively against those engaged in intellectual property fraud.

Slide 3 – The Palermo Convention

The United Nations Convention against Transnational Organised Crime is often referred to as the Palermo Convention, as that is where it was first presented for signing in 2000

It entered into force on 29 September 2003

Since that date 147 countries have signed the Convention

138 countries have ratified it and incorporated it into their domestic legislation.

Of the group represented here

Bahrain, Egypt, Lebanon, Morocco have ratified the Convention

Jordan and Yemen have signed, but not yet completed ratification

Qatar is yet to sign

Slide 4 Nature of the instruments

The Convention and Protocols deal with criminal law, but they are international law instruments

They are binding legal instruments

They work by committing the States who ratify them to adopt a series of crime-control measures, including criminal offences, administrative and regulatory controls, law enforcement and security measures, and crime-prevention measures.

These measures then become binding on individuals through their adoption in domestic law.

Slide 5 - Purpose of the Convention

The purpose of the Convention is stated in Article 1

“...to promote cooperation to prevent and combat transnational organized crime more effectively ”

For the purpose of our meeting on IPR – it offers an umbrella for authorities to operate under, a bridge to connect authorities engaged in seeking information, operational support, pursuing investigations to combat the organized offences of piracy

Slide 6 - Structure of the Convention

Keeping in mind its potential for application against IPR offences, it

a) Contains key definitions standardizing terminology

Eg what is defined as an “organized crime group”, definition of a “serious crime”, a ‘structured group’, “property” etc etc

b) Requires States to establish specific crimes

Eg making it an offence to ‘agree with one or more persons to commit a serious offence’

‘conduct’ by a person where they know they are engaging in the illegal activities of an organized criminal group

c) Introduce specific control measures

eg money laundering, corruption

d) provision for the forfeiture of the proceeds of crime

e) Cooperation

between States, between their law enforcement and judicial authorities

f) Supporting training , research, the exchange of information

Slide 7 Transnational in nature

The offences must be “transnational in nature” for the Convention to apply.

This requirement can be met in a number of ways, listed in Article 3.

The intention is to ensure that the Convention will be available for use in all of the circumstances in which foreign assistance is actually needed to investigate or prosecute a case.

Generally, this includes cases in which the actual offence has effects in more than one State, cases where an international group is committing purely domestic crimes in different countries, and cases where offences are planned or prepared in one place and committed in another.

I think that you can see its scope an application to intellectual piracy and copyright

That it potentially addresses the importation of products for illegal reproduction and manufacture without licence or consent of the ‘owner’

It offers opportunity to act against those who import or distribute such illegally manufactured products.

Medicaments, transportation parts come immediately to mind as examples.

Slide 8 - Organised Criminal group

The concerns of governments which led to the Convention were about the new abilities of criminals to organize themselves into groups on a transnational basis.

For this reason, the negotiations and the Convention itself are limited to organized crime cases. It was not thought necessary to deal with crimes committed by individuals.

The application to intellectual property piracy is clear.

Slide 9 Investigative measures

The Convention also provides for agreements between Parties on special investigative techniques commonly used against transnational organized crime.

Can form the legal basis for mutual legal assistance

- taking evidence from persons
- executing search warrants, seizing evidence, goods

Art. 19 > Joint Investigations

For matters subject to investigation by investigators, prosecutors or judicial proceedings in one or more States;

Art. 20 > Special Investigative Techniques

Encourages the use of a broad range of special investigative techniques as deemed appropriate;

- Controlled delivery;
- Electronic surveillance;
- Undercover operations.

There are important provisions for the protection of witnesses

Infiltrating criminal groups is often only viable with inside support.

Art. 26 > Encourages development of informants and informant programmes;
> Consideration of mitigating punishment for substantial cooperation;
> Includes situation where informant lives in another country.

Slide 10 Law enforcement

The cooperation measures called for supplement the mutual legal assistance provisions of Article 18.

Formal legal assistance generally requires judicial approval or oversight for operations such as search and seizure, but in many areas less formal cooperation between law enforcement agencies is both desirable and necessary.

There are provisions for exchanging relevant information in the Convention.

The types of information involve range from general research and criminological information about crimes and offenders to much more specific information needed to address particular problems.

This might include information about the methods being used to conduct organized crime activities or commit certain offences, or the information needed to identify and prosecute specific offenders.

Slide 11 Training / technical assistance

Article 29 generally requires States Parties to create or improve training programs for law enforcement personnel in all of the major subject areas covered by the Convention.

It is broad reaching and quite innovative.

It encourages the secondment and exchange of staff to extend knowledge and experience

There is no reason why private sector support should not be included here too

Exchanging information and knowledge about trafficking methods, routes and groups involved in IPR crime

Monitoring the movement of pirated goods to gather evidence or seize

Maintain effective controls over the activities being undertaken in free trade zones and free ports

Any and all measures that support better application of the Convention and its articles.