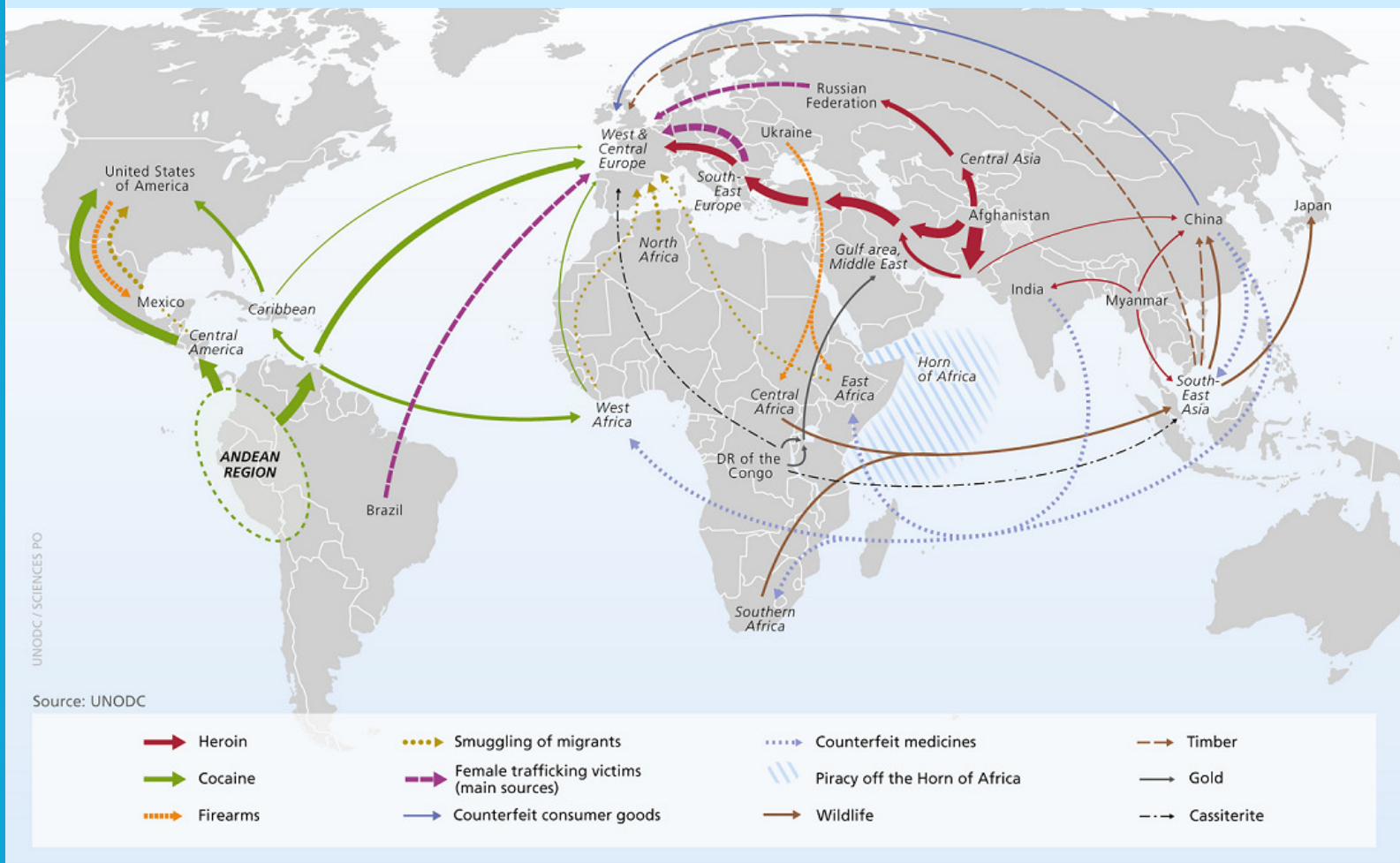


# The Benefits and Uses of the Convention against Transnational Organized Crime



Conference on Fraudulent Medicines  
14-16 February 2012

## Selected Transnational Organized Crime Flows (published in 2010)



Most TOC flows begin on one continent and end on another, often by means of a third, so only interventions at the scale of the problem – *global* – are likely to have a sustained effect.

# TOC: diverse

## Traditional forms of TOC

- Heroin and cocaine trafficking
- Extortion
- Human trafficking
- Migrant smuggling
- Firearms trafficking
- Money laundering

→ New players

## → (Re-)emerging forms of TOC

- Trafficking in fraudulent medicine
- Natural resource trafficking
- Counterfeit goods trafficking
- Cultural property trafficking
- Piracy
- Cybercrime

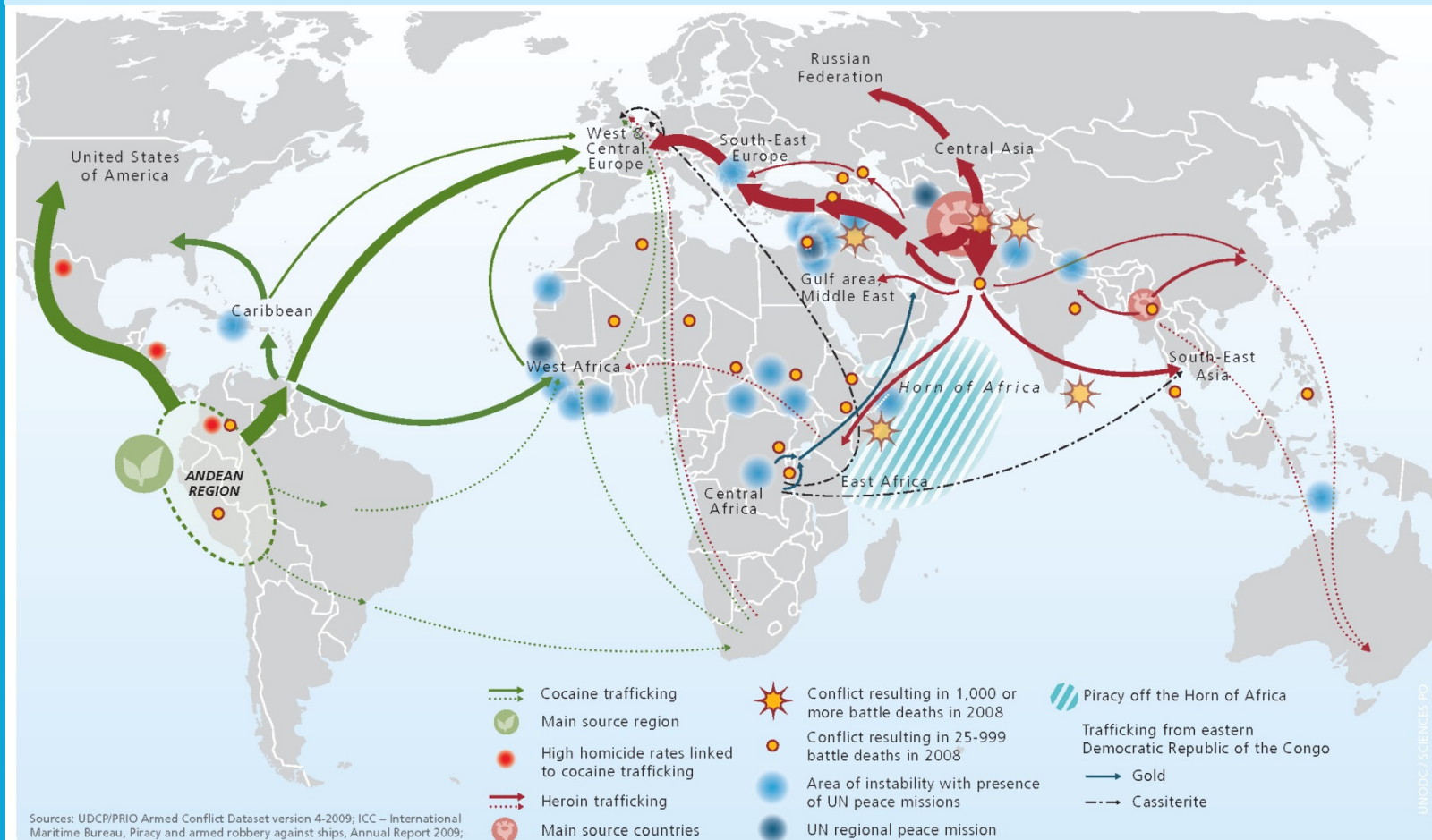
→ New means



# Increasingly threatening

TOC threatens international peace and security, human rights and development

**The intersection of TOC and instability** (published in 2010)



The Security Council has noted with *growing concern* the threat TOC poses to international security

(S/PRST/2010/4)

# Responding to TOC today

- An effective response must be
  - Global, integrated and coordinated
  - Strategic: including policy and operations in combating TOC
  - Comprehensive: Addressing all aspects of the “value chain”



- Facilitation of regional and international cooperation
- Facilitation coordination and communication between actors
- Offer tools that are flexible, practical and effective

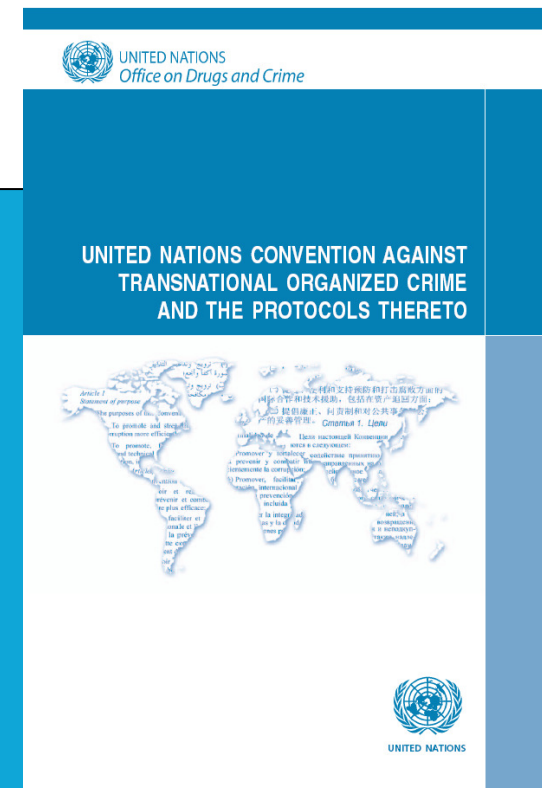
## Convention against Transnational Organized Crime (UNTOC)

### And its Protocols on:

- Trafficking in Persons
- Smuggling of Migrants
- Trafficking in Firearms

A global, flexible and practical legal instrument with the aim of **promoting cooperation to prevent and combat transnational organized crime more effectively**

(UNTOC, Art.1)



## Features of UNTOC:

- A global instrument:
  - Near universal adoption
- A flexible and responsive instrument:
  - Broad criminalization framework, broad scope of application
  - Responsive to emerging forms of crime
- A practical and effective instrument:
  - Establishes mechanisms for international cooperation
  - Can be used to supplement existing bilateral and multilateral agreements

## UNTOC addresses:

- Criminalization:
  - 4 offences
- Domestic measures:
  - To combat offences
  - To facilitate investigation and prosecution
  - To establish liability of legal persons
- Domestic obligations:
  - Cooperation
  - Information gathering/sharing
  - Prevention
- International cooperation:
  - Necessary for criminal investigations and prosecutions

# Broad scope of application

UNTOC applies to the “prevention, investigation and prosecution” of:

## (1) Convention offences

- Participation in an organized criminal group (Art.5)
- Laundering of proceeds of crime (Art.6)
- Corruption (Art.8)
- Obstruction of justice (Art.23)

## (2) Protocol offences

- Trafficking in persons
- Migrant smuggling
- Illicit trafficking or manufacturing in firearms

## (3) Serious crimes

When the offence

(a) is transnational  
in nature

and

(b) involves an  
organized criminal  
group

Transnationality and involvement of an organized criminal group must not be made elements offences established under domestic law (Art. 34. 2)



# Broad definitions

<p><b>Serious crime</b></p>	<p>Any offence punishable by a maximum deprivation of liberty of at least four years or a more</p>
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<p><b>Organized criminal group</b></p>	<ul style="list-style-type: none"> <li>• A structured group of three or more persons;</li> <li>• Existing for a period of time and acting in concert;</li> <li>• With the aim of committing one or more serious crimes or Convention offences;</li> <li>• To obtain a direct or indirect financial or other material benefit</li> </ul>
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<p><b>Transnational in nature</b></p>	<ul style="list-style-type: none"> <li>• Committed in more than one State; or</li> <li>• A substantial part of preparation, planning, direction or control takes place in another State; or</li> <li>• Involves an organized criminal group engaging in criminal activities in more than one State; or</li> <li>• Has substantial effects in another State</li> </ul>
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Applicable to any existing or unforeseen form of serious crime meeting this definition


“Structured” and “material benefit” to be interpreted broadly

Definition further expanded in Articles 16 and 18 on Extradition and Mutual Legal Assistance.

# UNTOC and emerging crimes

Trafficking in fraudulent medicines within the scope of UNTOC where:

- (1) Transnational in nature:
- (2) Involves and organized crime group:
- (3) Serious crime (4 or more years)

- 
- Engages tools for international cooperation
    - Tracing, freezing, confiscation, MLA, extradition

# Tools for cooperation

UNTOC establishes legal frameworks that enable and legal obligations that compel international cooperation

Acts as an autonomous legal basis for:

- Extradition (Art.16)
  - Minimum standards
- Mutual legal assistance (Art.18)
  - “Mini treaty”
- International cooperation for the purpose of confiscation (Art.13)
  - Proceeds of crime, instrumentalities
- Law enforcement cooperation (Art.27)
  - Measures to enhance communication and collaboration

Permits case-by-case cooperation for:

- Joint investigations (Art.19)
  - Creation of international teams
- Special investigative techniques (Art. 20)
  - Domestically and internationally





**UNODC**

United Nations Office on Drugs and Crime



For further information:

United Nations Office on Drugs and  
Crime

Vienna International Centre

PO Box 500, A-1400

Vienna, Austria

Karen Kramer

Tel: +43-1-26060- **4205**

[karen.kramer@unodc.org](mailto:karen.kramer@unodc.org)

[www.unodc.org](http://www.unodc.org)

