



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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**Working Group on
International Cooperation**
Vienna, 9-13 October 2017

**Working Group of Government
Experts on Technical Assistance**
Vienna, 11-13 October 2017

Draft report on the meetings of the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance held in Vienna from 9 to 13 October 2017

I. Introduction

1. In its decision 2/2, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to establish an open-ended working group to hold substantive discussions on practical issues pertaining to extradition, mutual legal assistance and international cooperation for the purpose of confiscation. In its decision 3/2, the Conference decided that an open-ended working group on international cooperation would be a constant element of the Conference. The Working Group on International Cooperation, established pursuant to that decision, holds substantive discussions on practical issues pertaining to different forms of international cooperation, including extradition, mutual legal assistance and international cooperation for the purpose of confiscation. The Working Group convened its first meeting during the third session of the Conference, which was held in Vienna from 9 to 18 October 2006. It has consistently met on a biennial basis and during the regular sessions of the Conference. Since 2014, however, the meetings have been convened on an annual basis based on resolution 7/1 of the Conference, in which the Conference encouraged the Working Group on the International Cooperation and the Working Group of Government Experts on Technical Assistance to consider meeting on an annual basis, as needed, and to hold their meetings consecutively, in order to ensure the effective use of resources. The seventh meeting of the Working Group was held in Vienna from 19 to 21 October 2016, marking the tenth anniversary of the Working Group.

2. The Working Group of Government Experts on Technical Assistance was established pursuant to decision 2/6 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. In its decision 4/3, the Conference decided that the Working Group should be a constant element of the Conference. The Working Group held its ninth meeting in Vienna from 17 to 19 October 2016, during the eighth session of the Conference.

3. In its resolution 7/1, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference decided that the working groups established by it should continue to analyse, in a comprehensive manner, the implementation of the



Convention and the Protocols thereto, making the best use of the information gathered, in full respect of the principle of multilingualism.

4. Furthermore, in its resolution 8/4, entitled “Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime”, the Conference noted that technical assistance was a fundamental part of the work carried out by the United Nations Office on Drugs and Crime (UNODC) to assist Member States in the effective implementation of the Convention and the Protocols thereto.

5. The Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance held back-to-back meetings from 9 to 13 October 2017 and considered jointly the item entitled “Preparation of the questionnaire to review the implementation of United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention”. In addition, the two working groups considered the item on “Other matters” jointly and adopted the present joint report on their meetings.

II. Recommendations

Working Group on International Cooperation

6. The following recommendations were formulated by the Working Group on International Cooperation:

Working Group of Government Experts on Technical Assistance

7. The following recommendations were formulated by the Working Group of Government Experts on Technical Assistance:

III. Summary of deliberations

Working Group on International Cooperation

A. Practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters (agenda item 2)

8. At its 1st meeting, on 9 October 2017, the Working Group considered agenda item 2, entitled “Practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters”. The discussion on the agenda item was facilitated by the panellist Lars Wilhelmsson (Sweden).

9. During the deliberations on this agenda item, speakers presented their views and experiences on the transfer of criminal proceedings as a form of international cooperation in criminal matters.

10. Speakers cited various legal bases available for transferring criminal proceedings, including the Organized Crime Convention; the Convention against Corruption; the 1988 Drug Trafficking Convention; and, at the regional level, the European Convention on the Transfer of Proceedings in Criminal Matters (1972); the European Convention on Mutual Assistance in Criminal Matters (1959); and the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000). Reference was also made, with regard to transfer of criminal proceedings in relation to piracy prosecution, to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and its 2005 Protocol. Several speakers noted that the transfer of criminal proceedings could also take place on the basis of reciprocity. Referring to

article 21 of the Organized Crime Convention on transfer of criminal proceedings, several speakers noted its non-binding nature, but also stressed its flexibility and potential application for international cooperation to combat a wide range of offences, including serious crimes, as defined in article 2(b) of the Organized Crime Convention. In addition, the use of article 21 of the Convention in conjunction with applicable bilateral treaties was emphasized as a practical option to promote international cooperation in this field.

11. Many speakers underlined the importance of having informal dialogue and consultations among relevant practitioners, including central authorities, of the cooperating jurisdictions in order to establish whether a formal request for the transfer of criminal proceedings was in the interest of the administration of justice, to avoid additional costs and duplication of work, and with a view to overcoming practical and procedural challenges associated with such a request, including the existence of language barriers. Such informal cooperation could include the use of informal joint investigative teams which can work collaboratively to identify needs or to assess in advance whether a request for the transfer of proceedings should be made. It was also noted that INTERPOL and regional bodies such as Eurojust and Afripol could also facilitate cooperation in this regard, especially by providing a platform to facilitate discussions on responses to conflicts of jurisdiction. Good practices mentioned related to this form of international cooperation included the use of electronic channels for receiving and sending requests, which greatly increased the efficacy of the process and shortened times of investigation, as well as confidence- and trust-building among practitioners, which facilitated dialogue and cooperation.

12. Several speakers said that transfer of criminal proceedings was not used widely in their countries and noted that it would be a good idea to continue discussions on its practical use, as this form of cooperation had particular implications at the regional level among the neighbouring jurisdictions involved in a case. With regard to the recommendation contained in paragraph 67 (c) of the background paper prepared by the Secretariat entitled “Practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters”, several views were expressed regarding the usefulness and timeliness of the development by the Secretariat of legal, practical and operational guidelines on the implementation of article 21 of the Organized Crime Convention. Some speakers stated that this would be useful in view of the fact that the transfer of criminal proceedings was not widely used in their countries, while others stated that the development of good practices, instead of guidelines, would possibly be more appropriate and useful; the Model Treaty on the Transfer of Proceedings in Criminal Matters was also cited as a relevant guidance tool for practitioners when negotiating bilateral treaties or agreements in this field.

13. Discussion also revolved around factors to be taken into account when considering the transfer of criminal proceedings. In this regard, participants made reference to national sovereignty aspects, as well as to the listed considerations in para. 64 of the background paper prepared by the Secretariat, including existing bases for the establishment of criminal jurisdiction (territoriality, as well as active and passive personality principles) and practical considerations such as where the proceedings should be concluded and access to evidence.

- B. Good practices for bilateral consultations between central authorities, including preparation, case tracking, training and participation (agenda item 3)**
- C. Recent developments in obtaining electronic evidence (agenda item 4)**

Working Group of Government Experts on Technical Assistance

A. Status of information provided by States parties on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto and related technical assistance (agenda item 3)

Joint items of the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance

- A. Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention (agenda item 5, Working Group on International Cooperation; agenda item 2, Working Group of Government Experts on Technical Assistance)**
- B. Other matters (agenda item 6, Working Group on International Cooperation; agenda item 4, Working Group of Government Experts on Technical Assistance)**

IV. Organization of the meetings

A. Opening of the meetings

14. The Working Group on International Cooperation met from 9 to 13 October 2017, holding a total of eight meetings. The meetings were chaired by Thomas Burrows (United States of America).

15. The Working Group of Government Experts on Technical Assistance met from 10 to 13 October 2017, holding a total of [...] meetings. The meetings were chaired by Thomas Burrows (United States of America).

B. Statements

16. Under agenda items 2 [to 4] of the Working Group on International Cooperation, statements were made by representatives of the following States parties to the Convention: Algeria, Argentina, Canada, Colombia, Ecuador, Germany, Mexico, Morocco, Nigeria, Pakistan, Romania, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America. [...].

17. Under the joint agenda items, namely agenda items 5 to 7 of the Working Group on International Cooperation and agenda items 2, 4 and 5 of the Working Group of Government Experts on Technical Assistance, statements were made by representatives of the following States parties to the Convention: [...].

18. Under agenda item 3 of the Working Group of Government Experts on Technical Assistance, statements were made by representatives of the following States parties to the Convention: [...].

19. A representative of the Secretariat delivered presentations under agenda items 1, 2 and 3.

C. Adoption of the agenda and organization of work

Working Group on International Cooperation

20. At its 1st meeting, on 9 October 2017, the Working Group on International Cooperation adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters.
3. Good practices for bilateral consultations between central authorities, including preparation, case tracking, training and participation.
4. Recent developments in obtaining electronic evidence.
5. Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention. *(joint item of the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance)*
6. Other matters. *(joint item)*
7. Adoption of the report. *(joint item)*

Working Group of Government Experts on Technical Assistance

21. At its 1st meeting, on 10 October 2017, the Working Group of Government Experts on Technical Assistance adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention. *(joint item of the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance)*
3. Status of information provided by States parties on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto and related technical assistance.
4. Other matters. *(joint item)*
5. Adoption of the report. *(joint item)*

D. Attendance

22. The following States parties to the Convention were represented at the meeting: Afghanistan, Algeria, Angola, Argentina, Austria, Bolivia (Plurinational State of), Brazil, Bulgaria, Canada, Chile, China, Colombia, Côte d'Ivoire, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, Estonia, Finland, France, Germany, Holy See, Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Luxembourg, Malaysia, Mali, Malta, Mauritius, Mexico, Morocco, Myanmar, Nepal, Nigeria, Norway, Oman, Pakistan, Panama, Philippines, Poland, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, State of Palestine, Sudan, Swaziland, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Yemen [...].

23. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.
24. Iran (Islamic Republic of), a signatory State to the Convention, was represented by an observer.
25. The following specialized agency of the United Nations system was represented by an observer: [...].
26. The following intergovernmental organizations were represented by observers: GCC-Criminal Information Center to Combat Drugs (GCC-CIC) [...].

E. Documentation

Working Group on International Cooperation

27. The Working Group on International Cooperation had before it the following:
 - (a) Provisional agenda and annotations (CTOC/COP/WG.3/2017/1-CTOC/COP/WG.2/2017/1);
 - (b) Background paper prepared by the Secretariat on the practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters (CTOC/COP/WG.3/2017/2);
 - (c) Draft questionnaire prepared by the Secretariat for the review of the implementation of United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention (CTOC/COP/WG.3/2017/3-CTOC/COP/WG.2/2017/2).

Working Group of Government Experts on Technical Assistance

28. The Working Group of Government Experts on Technical Assistance had before it the following:
 - (a) Provisional agenda and annotations (CTOC/COP/WG.2/2017/1-CTOC/COP/WG.3/2017/1);
 - (b) Draft questionnaire prepared by the Secretariat for the review of the implementation of United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention (CTOC/COP/WG.2/2017/2-CTOC/COP/WG.3/2017/3);
 - (c) Background paper prepared by the Secretariat on the status of information provided by States parties on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto and related technical assistance (CTOC/COP/WG.2/2017/3).

V. Adoption of the report

29. On 13 October 2017, the Working Groups adopted the present joint report on its meetings, as amended.