



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

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Working Group on International Cooperation

Vienna, 7–8 July 2020

Draft report on the meeting of the Working Group on International Cooperation held in Vienna on 7 and 8 July 2020

Addendum

II. Recommendations (*continued*)

(a) States parties are encouraged to make further use, where applicable, of article 20 of the Organized Crime Convention as a legal basis for international cooperation to carry out special investigative techniques; and also use other applicable regional instruments and bilateral agreements or arrangements or, in the absence of such agreements or arrangements, use special investigative techniques on a case-by-case basis, to foster cooperation in this field;

(b) States parties are also encouraged to exchange best practices and lessons learned in the field of special investigative techniques, especially those relating to the implementation of article 20 of the Convention;

(c) States parties are further encouraged to facilitate training activities for judges, prosecutors, law enforcement officers or other practitioners engaged in the conduct or oversight of special investigative techniques, bearing in mind the complexity of issues relating to the use of such techniques for obtaining particularly electronic evidence, and also taking into account the different stages of development in terms of the application of ICTs among States parties;

(d) States parties are also encouraged to promote communication and coordination already at early planning stages of their cooperation in to ensure that evidence is used effectively, including in extradition cases;

(e) In making use of special investigative techniques, States parties should, given the potential for danger to the public, particularly with regard to controlled deliveries, devote particular attention to accountability issues as well as the need to respect national sovereignty considerations;

(f) With a view to ensuring the admissibility in court of evidence derived from the use of special investigative techniques, such use should be subject both at the national level and in the context of international cooperation to human rights guarantees, including the principles of legality, subsidiarity and proportionality as well as safeguards for judicial or independent oversight;



(g) Further efforts should be made to fully utilize the key role that the private sector can play in some cases in the field of international cooperation when using special investigative techniques, bearing in mind the challenges in cooperating with communication service providers to secure electronic evidence for the detection, investigation and prosecution of crimes; and the requirements of domestic laws and treaties on mutual legal assistance involving bank and financial institutions;

(h) Building on previous recommendation contained in COP resolution 5/8, and on relevant guidance stemming from the deliberations at the Working Group, the Secretariat should develop, subject to the availability of resources, [a matrix identifying legal and practical issues that could arise in the implementation of article 20 of the Organized Crime Convention and the use of special investigative techniques, as well as possible solutions to those issues, including by collecting examples of arrangements or agreements on the use of such techniques between States parties] [a set of legal, practical and operational guidelines on the implementation of article 20];

(i) Subject to the availability of resources, the Secretariat should undertake the updating of the UNODC model legislation on mutual assistance in criminal matters that had been developed in 2007,¹ and the electronic surveillance guide developed in 2009, with the aim to include provisions and updated material respectively on the use of special investigative techniques to gather electronic evidence and on international cooperation to share such evidence;

(j) States are encouraged to provide funding on consistent and sustainable basis for the provision of technical assistance by UNODC for capacity-building in the area of international cooperation in criminal matters; in doing so, particular attention should be devoted to emerging challenges posed by the COVID-19 pandemic that may have a lasting impact on the work of central and other competent authorities involved in international cooperation in criminal matters;

(k) States are encouraged to make use of technology in the field of international cooperation to expedite related proceedings and, particular, address challenges encountered in this field due to the COVID-19 pandemic. Such use of technology may include, the more frequent use of videoconferences in mutual legal assistance practice, the electronic transmission of international cooperation requests and, to the extent feasible, the paperless administration of work in central and other competent authorities, not only in relation to their cooperation with their foreign counterparts but also in relation to their inter-institutional cooperation domestically.

IV. Organization of the meeting

B. Statements (*continued*)

1. Under agenda item 3, statements were made by representatives from the following States parties to the Convention: Colombia, Ecuador, Honduras, Italy, Mexico, Paraguay, Romania, United Kingdom, United States of America.

¹ https://www.unodc.org/pdf/legal_advisory/Model%20Law%20on%20MLA%202007.pdf.