



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

Annotated provisional agendas

Working Group on International Cooperation

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

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*)

Annotations

Working Group on International Cooperation

1. Organizational matters

(a) Opening of the meeting

The eighth meeting of the Working Group on International Cooperation will be opened on Monday, 9 October 2017, at 10 a.m.

(b) Adoption of the agenda and organization of work

At its meeting held on 8 February 2017, the extended Bureau of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime agreed to hold back-to-back meetings of the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance from 9 to 13 October 2017, with joint meetings to discuss agenda item 5, on the preparation of the questionnaire to review the implementation of the Organized Crime Convention, in accordance with Conference resolution 8/2. At its meeting held on 7 April 2017, the extended Bureau endorsed the proposed topics and organization of work of the two working groups.

Deliberations on agenda items 1 to 4 of the eighth meeting of the Working Group on International Cooperation are expected to last until 6 p.m. on Tuesday, 10 October 2017. Deliberations on the agenda items of the tenth meeting of the Working Group of Government Experts on Technical assistance are expected to start on Wednesday, 11 October 2017 at 10 a.m.

The joint meetings on the shared agenda item entitled “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” are scheduled for Wednesday, 11 October 2017, from 10 a.m. to 1 p.m. and from 3 to 6 p.m., as well as on Thursday, 12 October 2017, from 10 a.m. to 1 p.m.

Other matters for both working groups and the adoption of the joint report are expected to be discussed jointly on Friday, 13 October 2017, from 3 to 6 p.m.

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

At its seventh meeting, held in Vienna from 19 to 21 October 2016, the Working Group on International Cooperation recommended that the Conference include in thematic discussions at its future meetings, among other topics, the issue of 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 transfer of criminal proceedings is contemplated in article 21 of the Convention, which stipulates that “States parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.”

Under agenda item 2, the Working Group may wish to explore the link between the transfer of criminal proceedings and article 18 of the Convention, on mutual legal assistance. It may also wish to explore the link between the transfer of criminal

proceedings and extradition, taking into account the provisions of article 16 of the Convention.

Furthermore, the Working Group may wish to focus on practical considerations in the area of transfer of criminal proceedings, such as good practices and challenges, and also on the transfer of criminal proceedings as a practical measure to enhance international cooperation against transnational organized crime.

For its consideration of agenda item 2, the Working Group will have before it a background paper prepared by the Secretariat on 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.

Documentation

Background paper prepared by the Secretariat on 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)

3. Good practices for bilateral consultations between central authorities, including preparation, case tracking, training and participation

In its resolution 8/1, entitled “Enhancing the effectiveness of central authorities in international cooperation in criminal matters to counter transnational organized crime”, the Conference of the Parties reminded States parties of their obligation to designate a central authority in criminal matters, pursuant to article 18, paragraph 13, of the Convention, and to notify the Secretariat of its designation for inclusion in the directory of competent national authorities. It also urged States parties to afford one another the greatest measure of assistance, in accordance with the provisions of the Convention, as well as their domestic laws. Moreover, it requested States parties, inter alia, to permit direct communication and transmission of requests between central authorities, and encouraged them, when appropriate and feasible, to place liaison magistrates or officers in capitals of other States parties, to the fullest extent permitted under their domestic laws.

Also in its resolution 8/1, the Conference strongly encouraged States parties to facilitate engagement between and among central authorities in person, including through regional networks, or by virtual means, such as videoconferences, and highlighted the particular importance of engagement between central authorities in order to review the execution of requests, discuss impediments to mutual cooperation and identify solutions to those challenges.

In the same resolution, the Conference requested States parties to support central authorities in establishing or strengthening, as appropriate, systems for tracking the status of requests for international cooperation, including after such requests have been transferred to a competent authority for execution, and encouraged States parties to collect and make available statistical information about requests, including the forms of assistance sought, the legal bases invoked and time periods for processing requests. Furthermore, the Conference encouraged States parties to facilitate the active participation of central authorities in the relevant meetings of the Conference and its working groups, particularly the Working Group on International Cooperation, to share good practices and lessons learned with respect to international cooperation and to strengthen relationships among government experts, especially practitioners.

At its sixth meeting, held in Vienna on 27 and 28 October 2015, the Working Group on International Cooperation invited States parties to consider including in their delegations to future sessions of the Working Group practitioners in charge of matters related to the international cooperation provisions of the Convention and to encourage their active participation in the meetings of the Working Group (Conference resolution 8/1, annex I, recommendation (n)).

At its seventh meeting, the Working Group recommended that States parties to the Convention provide information, in particular statistical data, on the use of the Convention for international cooperation in criminal matters, in order to support an active dialogue in the Working Group and a more thorough understanding of the effectiveness of the Convention (Conference resolution 8/1, annex II, recommendation (a)).

During the deliberations under agenda item 3, experts and practitioners may wish to exchange views, experiences and expertise and to engage in consultations with a view to gaining a better understanding of the day-to-day practical issues relating to international cooperation and to discuss ways to improve coordination and collaboration.

4. Recent developments in obtaining electronic evidence

Crimes involving evidence in electronic form present unique challenges for international cooperation because countries continue to rely heavily on traditional, formal judicial means, in particular bilateral mutual legal assistance instruments, to obtain such evidence, thereby disregarding the requirements specific to it.

At its sixth meeting, the Working Group on International Cooperation dealt with the issue of gathering and sharing electronic evidence. In that connection, it recommended that Member States should consider examining ways and means to foster international cooperation involving, inter alia, the use of electronic evidence, the preservation of such evidence and, in particular, the examination of possibilities to expedite formal mutual legal assistance processes; and that the Secretariat should continue to mainstream the topic of electronic evidence into existing and future tools on international cooperation in criminal matters (Conference resolution 8/1, annex I, recommendations (d) and (b)).

At its seventh meeting, the Working Group recommended that the Conference include in thematic discussions at its future meetings, among other topics, the issue of the sharing of electronic evidence and pertinent challenges in the field of international cooperation, including how to cooperate in the context of the use of virtual currency in criminal activities and, where appropriate, issues regarding decrypting data.

During the deliberations under agenda item 4, the Working Group may wish to take stock of developments, good practices, challenges encountered and lessons learned in the area of international cooperation involving electronic evidence, with a particular focus on the aforementioned practical issues. The Working Group may also wish to discuss technical assistance and training-related issues, including the work of the Secretariat in developing and delivering train-the-trainer courses on cryptocurrency investigation.

5. 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 Convention¹

In its resolution 8/2, the Conference decided to continue the process of establishing the mechanism for the review of the implementation of the Organized Crime Convention and the Protocols thereto based on the recommendations contained in the report on the open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the Convention and the Protocols thereto (CTOC/COP/WG.8/2016/2). In the same resolution, the Conference also decided to elaborate specific procedures and rules for the functioning of the review mechanism, for consideration and adoption by the Conference at its ninth session, which were to be guided by the principles and characteristics set out in Conference resolution 5/5.

¹ Item to be discussed jointly by both working groups.

Also in its resolution 8/2, the Conference decided that the review mechanism should progressively address all of the articles of the Convention and the Protocols thereto for each of the instruments that States parties are parties to, grouped in thematic clusters in accordance with the content of their provisions and that, in order to review each thematic cluster of articles, the relevant working group was to define, in the next two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire.

For its consideration of agenda item 5, the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance will meet jointly and will have before them a draft questionnaire prepared by the Secretariat to review the implementation of the Organized Crime Convention. It is envisaged that the working groups will begin work on reviewing the draft questionnaire with a view to finalizing it before the ninth session of the Conference and submitting it for adoption by the Conference at that session.

Documentation

Draft questionnaire prepared by the Secretariat for the review of 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 (CTOC/COP/WG.3/2017/3-CTOC/COP/WG.2/2017/2)

6. Other matters¹

As no issues to be raised under agenda item 6 have come to the attention of the Secretariat, no documentation regarding the item is currently foreseen.

7. Adoption of the report¹

The Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance will adopt a joint report on their meetings, including their joint meetings, the draft of which will be prepared by the Secretariat.

Working Group of Government Experts on Technical Assistance

1. Organizational matters

(a) Opening of the meeting

The tenth meeting of the Working Group of Government Experts on Technical Assistance will be opened on Wednesday, 11 October 2017, at 10 a.m.

(b) Adoption of the agenda and organization of work

For annotations on this item, please see agenda item 1 (b) of the provisional agenda for the eighth meeting of the Working Group on International Cooperation (above).

2. 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 Convention¹

For annotations on this item, please see agenda item 5 of the provisional agenda for the eighth meeting of the Working Group on International Cooperation (above).

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

In accordance with article 32 of the Convention, each State party should provide the Conference with information on its programmes, plans and practices, as well as legislative and administrative measures taken, and subsequent difficulties encountered, in implementing the Convention, as required by the Conference.

Furthermore, in its resolution 8/4, on the implementation of the provisions on technical assistance of the Convention, the Conference endorsed the recommendations adopted by the Working Group of Government Experts on Technical Assistance at its ninth meeting, held from 17 to 19 October 2016. On that occasion, the Working Group recommended, inter alia, that States parties should designate a focal point for the purpose of communicating with the Secretariat to facilitate the implementation of paragraphs 4 and 5 of article 32 of the Convention and of the Protocols thereto, providing the United Nations Office on Drugs and Crime with the contact details of that focal point; and that States parties should consider making legislation public and accessible, preferably through the Internet. Moreover, it was recommended that States parties that have repositories of legislation and case law should provide links to those repositories to the Secretariat for inclusion in the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC).

Under agenda item 3, the Working Group will have before it a background paper prepared by the Secretariat on the status of information provided by States parties on the implementation of the Organized Crime Convention and the Protocols thereto and related technical assistance.

Documentation

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)

4. Other matters¹

As no issues to be raised under agenda item 4 have come to the attention of the Secretariat, no documentation regarding the item is currently foreseen.

5. Adoption of the report¹

The Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation will adopt a joint report on their meetings, including their joint meetings, the draft of which will be prepared by the Secretariat.

Annex

Proposed organization of work

<i>Working Group</i>			
<i>Working Group on International Cooperation</i>		<i>Working Group of Government Experts on Technical Assistance</i>	
<i>Date and time</i>	<i>Agenda item</i>	<i>Title or description</i>	<i>Agenda item</i>
Monday, 9 October			
10 a.m.-1 p.m.	1 (a)	Opening of the meeting	
	1 (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	
3-6 p.m.	2	Practical considerations, good practices and challenges encountered (<i>continued</i>)	
Tuesday, 10 October			
10 a.m.-1 p.m.	3	Good practices for bilateral consultations between central authorities, including, for example, preparation, case tracking, training and participation	
3-6 p.m.	4	Recent developments in obtaining electronic evidence	
Wednesday, 11 October			
10 a.m.-1 p.m.			1 (a) Opening of the meeting
			1 (b) Adoption of the agenda and organization of work
	5	Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime (<i>joint item</i>)	2 Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime (<i>joint item</i>)
3-6 p.m.	5	Preparation of the questionnaire (<i>continued</i>)	2 Preparation of the questionnaire (<i>continued</i>)
Thursday, 12 October			
10 a.m.-1 p.m.	5	Preparation of the questionnaire (<i>continued</i>)	2 Preparation of the questionnaire (<i>continued</i>)
3-6 p.m.			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

<i>Working Group</i>				
<i>Working Group on International Cooperation</i>			<i>Working Group of Government Experts on Technical Assistance</i>	
<i>Date and time</i>	<i>Agenda item</i>	<i>Title or description</i>	<i>Agenda item</i>	<i>Title or description</i>
Friday, 13 October				
10 a.m.-1 p.m.			3	Status of information provided by States parties (<i>continued</i>)
3-6 p.m.	6	Other matters (<i>joint item</i>)	4	Other matters (<i>joint item</i>)
	7	Adoption of the report (<i>joint item</i>)	5	Adoption of the report (<i>joint item</i>)