



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

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**International cooperation, with particular
emphasis on extradition, mutual legal assistance
and international cooperation for the purpose of
confiscation, and the establishment and strengthening
of central authorities**

Activities of the United Nations Office on Drugs and Crime to promote the implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime

Report of the Secretariat

I. Introduction

1. In its resolution 7/4, entitled “Implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime”, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime emphasized the particular relevance of the Organized Crime Convention as a basis for international cooperation in extradition, mutual legal assistance and international cooperation for purposes of confiscation, as well as for measures to enhance cooperation among law enforcement authorities. Furthermore, the Conference noted that international cooperation was a fundamental part of the work carried out by the United Nations Office on Drugs and Crime (UNODC) to support Member States in the effective implementation of the Convention and the Protocols thereto.

2. The present report provides updated information on the activities the Secretariat has undertaken to implement Conference resolution 7/4, including information on activities related to the recommendations formulated at the sixth meeting of the Working Group on International Cooperation (see the annex to

* CTOC/COP/2016/1.



the resolution). An overview of all the meetings of the Working Group can be found in the background paper prepared by the Secretariat on that subject (CTOC/COP/WG.3/2016/2).

II. Promoting the implementation of the Organized Crime Convention with a focus on fostering international cooperation

A. Development of tools

1. Knowledge management portal known as Sharing Electronic Resources and Laws on Crime

3. The Secretariat has continued to incorporate into the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC) information from Member States on legislation and case law related to the implementation of the Organized Crime Convention and the Protocols thereto. Updated information on the redevelopment of SHERLOC can be found in the report of the Secretariat on the provision of technical assistance to States in the implementation of the Organized Crime Convention and the Protocols thereto (CTOC/COP/2016/10).

4. In accordance with one of the recommendations included in the annex to resolution 7/4, the Secretariat expanded SHERLOC to include a growing number of resources related to mutual legal assistance and other forms of international cooperation in criminal matters.

5. During the reporting period, specific criteria were enabled in SHERLOC for searches related to international cooperation. This allows users to quickly access legislation relating to particular forms of international cooperation such as extradition, mutual legal assistance, specific forms of assistance, informal cooperation and the transfer of criminal proceedings. For each of those forms of international cooperation several filters facilitate a more advanced search. For searches related to mutual legal assistance, for instance, SHERLOC offers fifteen keywords corresponding to a variety of types of assistance, such as “taking evidence or statements from persons”, “effecting service of judicial documents”, “executing searches and seizures, and freezing”, “examining objects and sites”, “providing information, evidentiary items and expert evaluations”; “providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records”, “identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes”, “cooperation for the purposes of confiscation and disposal of confiscated proceeds of crime or property”; “facilitating the voluntary appearance of persons in the requesting State party”, and “spontaneous transmission of information”.¹

6. As of 1 July 2016, the SHERLOC legislation database contained 64 pieces of legislation from 34 countries relating to article 13 of the Convention (International

¹ The list can be accessed from the SHERLOC home page by following “database of legislation”, then “cross-cutting” and finally “international cooperation”.

cooperation for purposes of confiscation); 244 pieces of legislation from 117 countries relating to article 16 (Extradition); 174 pieces of legislation from 73 countries relating to article 18 (Mutual legal assistance); 20 pieces of legislation from 11 countries relating to article 19 (Joint investigations); 10 pieces of legislation from 8 countries relating to article 21 (Transfer of criminal proceedings); 42 pieces of legislation from 26 countries relating to article 26 (Measures to enhance cooperation with law enforcement authorities); and 19 pieces of legislation from 9 countries relating to article 27 (Law enforcement cooperation).

7. In addition to making pieces of national legislation available in PDF format, SHERLOC allows the user to see the specific provision under national law that relates to a given provision on mutual legal assistance in the Organized Crime Convention. Thus, users can easily and quickly enhance their knowledge on how different countries interpret and implement the provisions of the Convention on international cooperation. Similarly, practitioners seeking information on specific matters, such as the entities dealing with requests for mutual legal assistance, the content of a request for mutual legal assistance or the requirements for international cooperation through the execution of requests for mutual legal assistance, can benefit from this search feature.

8. The Secretariat has also continued to expand the SHERLOC case-law database, which as of 1 July 2016 contained 2,156 cases from 109 countries. Many of those cases are transnational in nature and have benefited from international cooperation. Practitioners using SHERLOC can directly consult this body of jurisprudence under the keywords “extradition”, “international cooperation for confiscation/asset recovery”, “mutual legal assistance”, “transfer of criminal proceedings”, “transfer of sentenced persons”, “international law enforcement cooperation (including the International Criminal Police Organization (INTERPOL))”, “expedited assistance for digital evidence”, “preservation of computer data”, “24/7 network point of contact” and “direct contact with service providers”.²

9. The Secretariat will continue to rely on the advice of the Conference and its working groups on how to further enhance the usefulness of the resources available on SHERLOC related to international cooperation.

2. Expanded directory of competent national authorities

10. As a result of continuous expansion in line with previous mandates of the Conference, the directory has become a comprehensive resource. It contains information from more than 500 different authorities designated under various provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the United Nations Convention against Transnational Organized Crime and the Protocols thereto and General Assembly resolution 68/186. The directory contains information on the authorities designated to deal with requests for mutual legal assistance, extradition, the transfer of sentenced persons, trafficking in narcotic drugs by sea, the prevention of transnational organized crime, the smuggling of migrants by sea, trafficking in firearms and trafficking in cultural property. However, as some speakers reported at

² The list can be accessed from the SHERLOC home page by following “case-law database”, then selecting “cross-cutting” and finally “international cooperation”.

the sixth meeting of the Working Group on International Cooperation, in 2015, it was often difficult to navigate a directory that was densely filled with information on such a diverse range of authorities. The Working Group therefore recommended that the directory should be separated into two parts. Part I was to contain information on central authorities dealing with requests for mutual legal assistance. Part II was to contain information on other competent and/or executing authorities. Following up on this recommendation, the Secretariat has undertaken several changes to the directory, a revised version of which will be brought to the attention of the Conference at its eighth session.

11. The 2016 expanded version of the directory has been fully upgraded and redesigned. The publication of the paper version will be followed by an online version hosted on SHERLOC.

3. Mutual Legal Assistance Request Writer Tool

12. Since the seventh session of the Conference, the Secretariat has been working on revising and updating the UNODC Mutual Legal Assistance Request Writer Tool, which it had developed to assist criminal justice practitioners in expeditiously drafting requests for mutual legal assistance, thereby enhancing cooperation between States and accelerating responses to international cooperation requests. In this context, the Secretariat hosted two informal expert group meetings in Vienna, one on 13 and 14 May and another on 22 and 23 October 2015 to receive feedback and guidance on the substantive and technical aspects of the revision of the Tool. The purpose of the meetings was to shape the framework for the redevelopment of the Tool and include in it additional features on asset recovery, digital evidence and specific forms or means of international cooperation in criminal matters, such as transfer of criminal proceedings, videoconferencing, joint investigations and cooperation to conduct controlled deliveries. In consultation with the experts attending the meetings, the redeveloped content and structure of the Tool were finalized, thus enabling the launching of a pilot phase to test its use in practice. The redeveloped Tool was tested in Ethiopia, Kenya and Uganda in July 2016.

13. In the course of the revision process, the Secretariat delivered presentations to raise awareness about the Tool at the third international meeting on improving international cooperation on cybercrime in the Eastern partnership region hosted by the Council of Europe in Kiev on 4 and 5 April 2016, and at the workshop on mutual legal assistance in international corruption cases held in Beijing on 13 and 14 April 2016, which was co-hosted by China, the United Kingdom of Great Britain and Northern Ireland and the Organization for Economic Cooperation and Development, in close cooperation with UNODC. The redevelopment of the Tool at its different stages was also a key theme at a “train-the-trainer” initiative of the Network of West African Central Authorities and Prosecutors. The translation of the Tool into French for use in training under that initiative has also been completed.

4. Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto

14. The *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* were updated pursuant to resolution 7/4 and published electronically on SHERLOC in July 2016. An informal expert group meeting was held in Vienna from 5 to

9 October 2015, also pursuant to Conference resolution 7/4, to obtain guidance and expertise for the updating exercise. The *Legislative Guides* are intended to assist national legislators, legislative drafters and other officials in their efforts to develop legislative and other measures needed for their countries to become a party to the Convention or to implement the Convention in compliance with its requirements.

5. Needs assessment tools relating to the implementation of the Organized Crime Convention

15. From 16 to 18 December 2015, UNODC held an expert group meeting in Vienna in order to finalize the tools for assessing the needs related to the implementation of the Organized Crime Convention. The needs assessment tools will be contained in a publication provisionally entitled “Implementation of the United Nations Convention against Transnational Organized Crime: Needs assessment tools”, which will be available later in 2016. The purpose of those tools is to provide guidance in assessing the measures that could be taken by States parties to ensure that the full potential of the Organized Crime Convention can be realized. The tools are meant to be used in the delivery of technical assistance, in particular in assessing the needs of States for technical assistance, with a focus on implementing legislation. At the domestic level, the tools also enable experts, in particular policymakers and legislators, to assess the implementation of the Convention, including by means of self-assessments. The tools consist of indicators and questions designed to identify gaps in existing legislation and its implementation, facilitate the formulation and development of technical assistance projects that adequately respond to the gaps and needs identified, and facilitate the development of performance indicators for evaluating progress in implementation (see also CTOC/COP/WG.2/2016/2).

16. Chapter 3 of the needs assessment tools relates to the legislative and administrative measures to enhance various forms of international cooperation, including mutual legal assistance and international cooperation among law enforcement agencies. Its tools are described in the sections entitled “Tool 12: Extradition (article 16)”, “Tool 13: Mutual legal assistance in criminal matters (article 18)” and “Tool 14: Other forms of international cooperation (articles 17, 19, 21 and 27)”.

6. Practical assistance tool to assist in the implementation of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences

17. Pursuant to General Assembly resolution 69/196, in May 2016 UNODC launched the publication *Practical Assistance Tool to Assist in the Implementation of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences*. This Tool was designed for use by national authorities, law enforcement authorities, practitioners and policymakers working in the field of cultural property. Chapter III, on cooperation, provides practical information on matters related to international cooperation for the purpose of preventing and combating trafficking in cultural property, including, for instance, jurisdiction, judicial cooperation in criminal matters, extradition, international cooperation for purposes of seizure and

confiscation, international cooperation among law enforcement and investigating authorities, and the return, restitution and repatriation of cultural property.

B. Networking and mainstreaming the topic of cybercrime and the use of electronic evidence into existing tools of international cooperation

1. Networking to combat transnational organized crime

18. Regional cooperation networks play an important role in supporting the specific needs of countries in addressing the transnational and regional dimensions of criminal investigations and prosecutions. In December 2015, UNODC launched the Global Programme on Building Effective Networks against Transnational Organized Crime in partnership with international and regional agencies in order to address international cooperation among law enforcement officials. The aims of the Global Programme include building greater connectivity between entities charged with fighting all types of organized crime and improving the sharing of criminal intelligence at the regional and interregional levels. A further aim is to strengthen cooperation between existing international and regional law enforcement centres and organizations, thus enabling them to support multilateral investigations and target organized crime and related illicit financial flows. The use of performance benchmarks is encouraged by promoting networking between law enforcement training and educational institutions through the exchange of training curricula, training materials, methodologies, best practices and trainers. The greater connectivity that is expected to result from enhanced exchanges between agencies will strengthen national efforts to combat the increasingly sophisticated operations of transnational criminal networks.

19. In addition to the need for law enforcement networking there is a need for speedier and more effective prosecutions. Effective and efficient international cooperation for purposes of mutual legal assistance, extradition and confiscation of the proceeds of crime can be an important tool in prosecutions involving multiple jurisdictions. However, it is a specialized area of law that continues to pose a challenge to countries and imposes a burden on them in terms of time and resources, often without the desired results.

20. In that regard, UNODC has helped to establish three networks aimed at supporting more effective prosecutions, each tailored to the specific needs of the region (see also the report of the Secretariat on the provision of technical assistance to States in the implementation of the Convention and the Protocols thereto (CTOC/COP/2016/10)).

21. In the Americas, the Network of Prosecutors against Organized Crime, led by the Central American Council of Public Prosecutors, facilitates the exchange of good practices and operational information between prosecutors in a region where serious crime is largely transnational in nature and therefore requires ongoing communication and trust. It complements the Ibero-American Legal Assistance Network, which connects central authorities and prosecutors and is aimed at strengthening international cooperation in criminal matters. Currently, UNODC requires funding to continue its support to the network.

22. In West Africa, differences in legal systems, institutions and languages have hindered cooperation efforts and limited the scope for effective complex transnational prosecutions. A lack of resources and of well-trained judicial and prosecutorial personnel are further impediments. For these reasons, UNODC, with the support of the Economic Community of West African States, has established the West African Network of Central Authorities and Prosecutors against Organized Crime. This Network, modelled after Eurojust and the European Judicial Network, seeks to enhance international cooperation in criminal matters and prosecutions of complex crimes by building capacity, providing tools and facilitating direct contact between national focal points. The achievements of the Network include helping to gain a better understanding of the role and functions of central authorities, to create central authorities in Ghana and the Niger, to strengthen the central authority in Nigeria, to achieve greater efficiency in the handling of incoming and outgoing requests for mutual legal assistance and to facilitate the resolution of obstacles in extradition cases.

23. Moreover, the Network of Prosecutors and Central Authorities from Source, Transit and Destination Countries in response to Transnational Organized Crime in Central Asia and the Southern Caucasus was set up jointly by UNODC and the Prosecutor General's Office of Kazakhstan. Difficulties in understanding material and procedural laws of transit and destination countries outside the former Union of Soviet Socialist Republics, language barriers and a lack of direct contact among practitioners has led to the establishment of the Network, which is also supported by Eurojust. The Network facilitates cooperation among practitioners from within and outside the region in ongoing cases, which results in the building of trust based on their ability to make direct contact and in greater efficiency in handling incoming and outgoing requests for mutual legal assistance and extradition. The Network operates by holding regular plenary meetings and delivering interregional and national training courses to judicial and law enforcement practitioners of its eight member countries.

2. Networking and international cooperation to combat cybercrime

24. At its sixth meeting, in 2015, the Working Group on International Cooperation examined 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. The Working Group recommended, inter alia, that the Secretariat should continue to mainstream the topic of electronic evidence into existing and future tools on international cooperation in criminal matters and requested States to provide relevant information and materials for inclusion in SHERLOC (see also the report of the meeting of the Working Group held in Vienna on 27 and 28 October 2015 (CTOC/COP/WG.3/2015/4)).

25. The Eastern African Networking Meeting on Cybercrime and Electronic Evidence was held in Nairobi on 19 and 20 August 2015. It was organized by UNODC and the Commonwealth Secretariat, under the auspices of the Commonwealth Cybercrime Initiative. The objective of the meeting was to bring together criminal justice officials and key stakeholders from States members of the East African Community and other African States, as well as representatives of relevant intergovernmental and other organizations, to discuss and exchange

information on national practices in, and experiences with, the prevention, investigation and prosecution of cybercrime.

26. The main focus of the meeting was the establishment of the Eastern African Criminal Justice Network on Cybercrime and Electronic Evidence, in line with the relevant action points set forth in a document entitled “Kampala outcomes on strengthening regional cooperation”, as agreed at the East African Community regional meeting on preventing and combating cybercrime, held in Kampala on 27 and 28 May 2014. The participants discussed a range of procedural and substantive aspects of the launching and operationalization of such a network, including its membership, chairmanship and functions, as well as its objectives and modus operandi. The network aims to promote the exchange of information and evidence between criminal justice and law enforcement counterparts; facilitate working relationships between the criminal justice and law enforcement sectors and other key stakeholders; and assist formal and informal cooperation.

III. Conclusions

27. The present report contains a brief overview of the activities of the Secretariat geared towards promoting the implementation of the international cooperation provisions of the Organized Crime Convention.

28. Under the relevant item on its agenda, the Conference may wish to further discuss:

(a) Practical and legal aspects pertaining to the implementation of the international cooperation provisions of the Convention;

(b) Ways and means to strengthen the impact of technical assistance and capacity-building activities in the field of international cooperation in criminal matters as an effective response to all forms of transnational organized crime;

(c) The most effective ways in which the Secretariat could further promote the sharing of knowledge and experiences and facilitate direct contact and coordination among central and other competent authorities and practitioners from various Member States responsible for international cooperation;

(d) Further guidance on the development of tools to support and facilitate the work of central and other competent authorities and practitioners responsible for international cooperation.