

20 January 2012

English only

**Open-ended intergovernmental working group
on the review of the implementation of the
United Nations Convention against
Transnational Organized Crime and the
Protocols thereto**

Vienna, 23-27 January 2012

Item 3 of the provisional agenda

**Terms of reference for such proposed review mechanism
or mechanisms, guidelines for governmental experts and a
blueprint for the country review reports****Proposal regarding the International Cooperation and
Allocation of the Articles of the Convention and the
Protocols thereto****Non-paper by Romania**

This conference room paper is submitted by Romania with a view to seek further reflection from the Member States on the matter of international cooperation and how this very important aspect of the implementation of the United Nations Convention on Transnational Organized Crime and its Protocols is going to be evaluated through the review mechanism.

The Romanian considerations start from the current document entitled “*Allocation of the articles of the Convention and the Protocols*” (CTOC/COP/WG.5/2012/CRP.2), as it was discussed during the informal meetings held between July and December 2011.

The international cooperation is the very core of the Convention and its Protocols and there is an evident need for a pragmatic approach in order to achieve the best results from the evaluation process. Therefore, the present proposal does not fulfil entirely this requirement.

Currently, the subject of international cooperation is treated in two different clusters:

1. International Cooperation cluster — under the First Cycle and



2. Cooperation Cluster — under the Second Cycle.

1. The Articles on International Cooperation cluster in the First Cycle cover issues related to:

International judicial cooperation

- Art. 16 Convention: Extradition;
- Art. 17 Convention: Transfer of Sentenced Persons;
- Art. 18 Convention: Mutual Legal Assistance;
- Art. 19 Convention: Joint investigations;
- Art. 21 Convention: Transfer of criminal proceedings.

Law enforcement cooperation

- Art. 24(3) Convention: Protections of witnesses;
- Art. 27 Convention: Law enforcement cooperation;
- Art. 28(2) Convention: Collections, exchange and analysis of information on the nature of organized crime;
- Art. 10(1) Trafficking Protocol: Information exchange and training;
- Art. 10(1) Smuggling Protocol: Information;
- Art. 18 Smuggling Protocol: Return of smuggled migrants.

2. The Articles on international cooperation in the Second Cycle are in fact included in the Cooperation cluster and cover mostly issues related to law enforcement cooperation. International judicial cooperation is less reflected (Art. 20, Art. 22 Convention):

International judicial cooperation

- Art. 20 Convention: paragraphs 2, 3, 4: Special investigative techniques;
- Art. 22 Convention: Establishment of criminal record.

Law enforcement cooperation

- Art. 26 Convention: paragraph 5 in conjunction with paragraph 1: Measures to enhance cooperation with law enforcement authorities;
- Art. 7 Smuggling Protocol: Cooperation;
- Art. 10 Smuggling Protocol: Information;
- Art. 17 Smuggling Protocol: Agreements and arrangements;
- Art. 12 Firearms Protocol: Information;
- Art. 13 Firearms Protocol: Cooperation.

Dividing the topic of international cooperation in two different clusters and in different cycles is not the best solution in terms of costs and results. The interconnected issues such as joint investigation teams and special investigative techniques are tackled in different cycles. Also the law enforcement cooperation, such as the articles referring to information or cooperation are approached partially

in the first cycle, and partially¹ in the second cycle. The horizontal issues such as cooperation or information should be analysed in the same time, not in a fragmentary way, at different moments in time, no matter which Protocol in covering this issue.

There is necessary to evaluate these provisions together due to their obvious interrelated nature. Separate clusters will determine duplication of efforts and would impede on the evaluation process, offering only parts of what should be an overview of the challenges and best practices in the application of the Convention and its Protocols.

Therefore, Romania proposes **to evaluate together all the aspects of international cooperation in one cycle entitled “International Cooperation” which might be approached, if necessary, in two clusters: 1. “International judicial cooperation” and 2. “Law enforcement cooperation”**. There are 19 articles under discussion dealing with international cooperation, each of them having a different degree of complexity and this approach would not create additional burdens to the Member States. On the contrary this new approach would be efficient in terms of human resources, time and budgetary issues.

¹ For example the issue of information: in the first cycle this issue is touched upon matters related to information from the Convention, Trafficking Protocol and Smuggling Protocol. In the second cycle, this issue has to be analysed again under the relevant provisions from the Smuggling Protocol and, in addition, under the provisions from the Firearms Protocol.