

The UNODC SHERLOC team is pleased to share with you Issue No. 24 of our newsletter regarding our recent efforts to promote international cooperation in criminal matters to prevent and combat transnational organized crime.



EDITORIAL

INTERNATIONAL COOPERATION

The current newsletter sheds light on the topic of international cooperation in criminal matters. It explores the role that the United Nations Convention against Transnational Organized Crime (UNTOC) has had in advancing international cooperation since its entry into force, 20 years ago.

This newsletter also provides information on the Working Group of International Cooperation, one of the subsidiary bodies of the Conference of the Parties to UNTOC, as well as on the UNTOC Review Mechanism and its Constructive Dialogues. It also presents key technical assistance and research tools, such as the UNODC Directory of Competent National Authorities and the UNODC Digest of Cases of International Cooperation involving UNTOC as a legal basis.

Two representative cases, one on extradition and one on mutual assistance in criminal matters, are also featured. Furthermore, this newsletter contains information on the lessons learned from the impact of COVID-19 on international cooperation.

In this issue

20 YEARS AFTER THE ENTRY INTO FORCE OF THE UNTOC

THE WORKING GROUP ON INTERNATIONAL COOPERATION

THE UNODC DIGEST OF CASES ON INTERNATIONAL COOPERATION INVOLVING UNTOC AS A LEGAL BASIS

THE CNA DIRECTORY AS A TOOL TO PROMOTE INTERNATIONAL COOPERATION

LESSONS LEARNED FROM THE IMPACT OF COVID-19 ON INTERNATIONAL COOPERATION

THE UNTOC REVIEW MECHANISM AND ITS CONSTRUCTIVE DIALOGUES

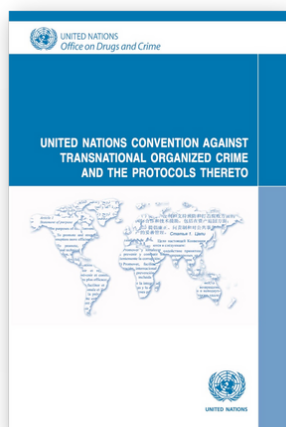
FEATURED CASES RELATED TO INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

MEET A CONTRIBUTOR

THE UNTOC AS A CRUCIAL TOOL TO PROMOTE INTERNATIONAL COOPERATION TO COMBAT TRANSNATIONAL ORGANIZED CRIME, 20 YEARS AFTER ITS ENTRY INTO FORCE



The various forms of transnational organized crime generate billions of dollars every year worldwide, eroding economic development and negatively impacting the advancement of the rule of law. The huge profits generated undermine legitimate economies and often usher in corruption in law enforcement and political processes. In many regions of the world, transnational organized crime has evolved from social and criminal problems into a major threat to human security, fuelling violence, conflict and even terrorism. Agile and multidimensional in character, organized crime feeds off inequality and marginalization while at the same time adapting to new technologies. Organized criminal groups and their *modi operandi* evolve rapidly as a result of structural changes at the national and international levels (having, most recently, exploited opportunities created by the global coronavirus disease [COVID-19] pandemic).

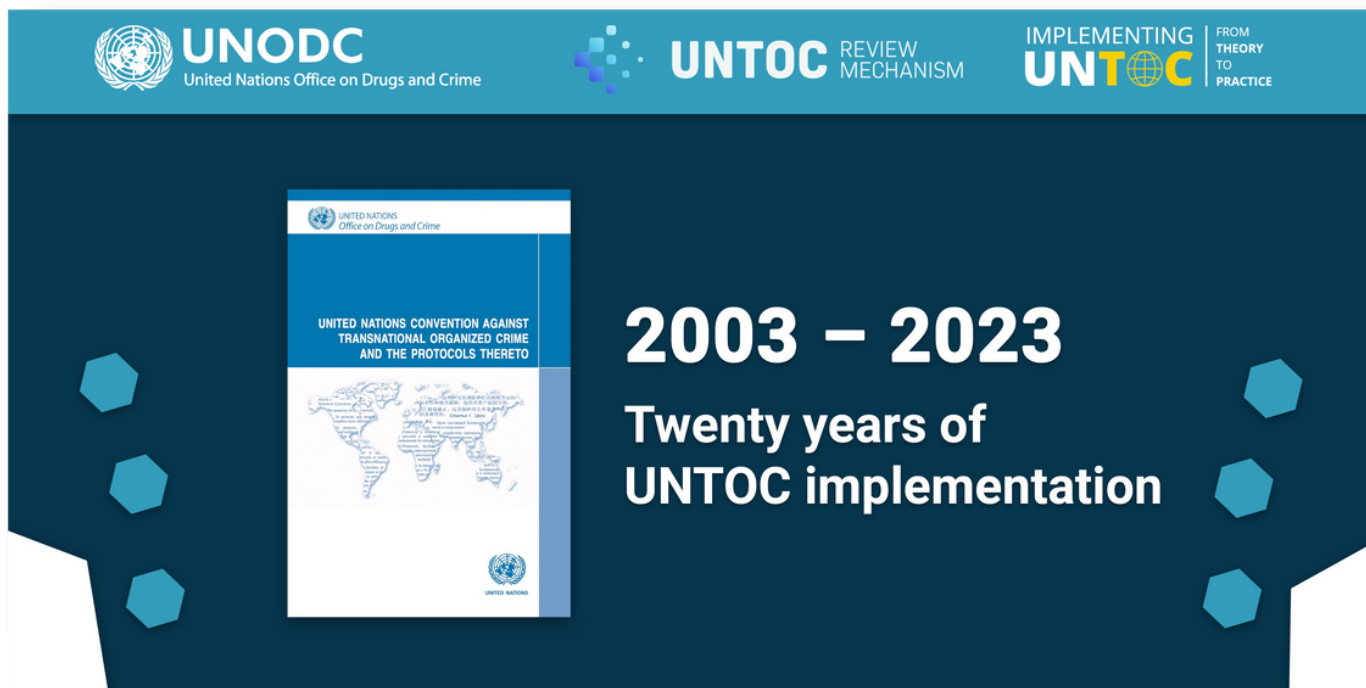


Against this backdrop, the United Nations Convention against Transnational Organized Crime (UNTOC) is a crucial tool in the hands of criminal justice and law enforcements authorities. Adopted by the General Assembly on 15 November 2000, in its resolution 55/25, it entered into force on 29 September 2003. This year marks the twentieth anniversary of the entry into force of the Convention, which has reached the status of almost universal adherence with 191 parties to it. As the guardian of the implementation of the UNTOC, the United Nations Office on Drugs and Crime (UNODC) has a vital role to play in assisting States in translating their commitments into actions.

A particular strength of the Convention is its broad scope which enables its application not only in relation to the offences established in accordance with the provisions of the Convention (participation in an organized criminal group; money-laundering; corruption; obstruction of justice) and the offences established in accordance with the provisions of the three supplementary Protocols, but also with regard to any other “serious crime” (as defined in article 2(b) of the Convention), where the offence is transnational in nature and involves an organized criminal group (article 3). This enables the application of the Convention in relation to emerging and new forms of crime.

Moreover, the Convention creates a solid and robust regime for international cooperation in criminal matters. The negotiation and adoption of the UNTOC and its supplementary Protocols took place in an era when States parties were signalling their intention to establish lasting rules and institutions based on mutual solidarity and shared responsibilities to combat transnational organized crime, including through enhanced mechanisms of international cooperation. That was particularly illustrated through the inclusion of comprehensive and focused provisions on international cooperation in criminal matters in the final text of the Convention.

THE UNTOC AS A CRUCIAL TOOL TO PROMOTE INTERNATIONAL COOPERATION TO COMBAT TRANSNATIONAL ORGANIZED CRIME, 20 YEARS AFTER ITS ENTRY INTO FORCE



As stated in its article 1, one of the main purposes of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively. The Convention contains a range of measures to enable and facilitate international cooperation between States Parties, including through:

- Extradition (article 16) • Mutual legal assistance (article 18) • Joint investigations (article 19)
- Use of special investigative techniques (article 20) • Law enforcement cooperation (article 27)
- Transfer of sentenced persons (article 17) • Transfer of criminal proceedings (article 21)

Article 18, in particular, is considered as a “mini-treaty” on mutual legal assistance (MLA), addressing a broad range of mutual legal assistance aspects and reflecting the considerable evolution of this concept and mechanism as one of the primary tools of international cooperation against transnational organized crime. Article 16 sets a basic minimum standard for enhancing the efficiency of extradition mechanisms and enables the direct application of the Convention as legal basis.

Twenty years after the entry into force of the Convention, tackling transnational organized crime remains a challenge that cannot be addressed by any State in isolation. Comprehensive, efficient, effective, multi-agency and flexible international cooperation is therefore essential to ensuring the appropriate investigation and prosecution of transnational organized crime. The UNTOC offers the necessary legal tools to promote such cooperation and opens avenues to obtaining additional evidence, accessing information, and freezing, seizing and confiscating proceeds of crime or property, as well as arresting and extraditing fugitives that would otherwise be immune to prosecution.

THE WORKING GROUP ON INTERNATIONAL COOPERATION



In its decision 2/2, 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 decided to establish, at its third session, 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.

The working group was established as the Working Group on International Cooperation. Together with the Working Group of Government Experts on Technical Assistance, it was the first subsidiary body created by the Conference to assist it in making recommendations to improve the Convention and its implementation (art. 32, para. 3 (e), of the Convention).

In its decision 3/2, the Conference of the Parties expanded the mandate of the Working Group to cover a broad range of forms of international cooperation, as provided for in the Convention. In the same decision, the Conference further laid the foundations for the continuity and sustainability of the Working Group by making it a constant element of its work and structure.

Since its first meeting in 2006, the Working Group on International Cooperation has been used as a platform to enable the exchange of views and practical experiences among States parties on different aspects pertaining to extradition and mutual legal assistance, as well as on such topics as international cooperation for purposes of confiscation, transfer of criminal proceedings, joint investigations, the use of special investigative techniques, transfer of sentenced persons and international cooperation involving electronic evidence.

Moreover, the Working Group has actively promoted synergies with other intergovernmental bodies in two main ways. First, by either organizing joint thematic discussions with the Working Group of Government Experts on Technical Assistance on such important issues as combating transnational organized crime against cultural property and the application of the UNTOC for preventing and combating transnational organized crimes that affect the environment. Second, by holding back-to-back meetings with the open-ended intergovernmental expert meeting to enhance international cooperation

THE WORKING GROUP ON INTERNATIONAL COOPERATION



11th session of UNTOC COP Working Group on International Cooperation

under the United Nations Convention against Corruption, in view of the cross-cutting issues arising from the two conventions and the fact that central authorities in many States are dealing with international cooperation under both conventions.

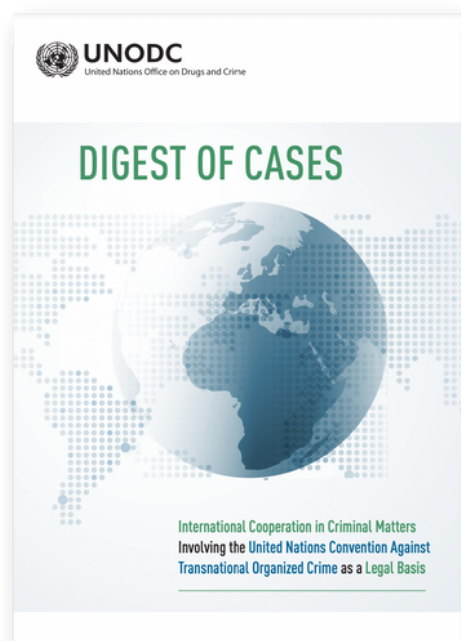
From a policy-making perspective, the Working Group adopts recommendations which are brought to attention of the Conference of the Parties for final endorsement. These recommendations have been used as important guidance to facilitate a more efficient implementation of the provisions of the Convention that govern international cooperation and to assist States parties in their efforts to strengthen international cooperation mechanisms, including through capacity building.

From a methodological perspective, and in support of the discussion of various agenda items at the regular meetings of the Working Group, it has been the Secretariat's consistent practice to prepare background papers as pre-session documents to outline the substantive content of the topic under discussion. In this context, a series of background papers on different forms of international cooperation have been elaborated over the years to guide States parties in gaining a better understanding of the legal and practical aspects associated with the use of the respective provisions of the Convention.

The procedures and rules for the functioning of the Implementation Review Mechanism of the Convention envisage a significant role for the working groups of the Conference, including the Working Group on International Cooperation, in the Mechanism. According to paragraph 12 of the procedures and rules, the Conference and its working groups are to add the review process to their agendas as an item consistent with their areas of expertise and without prejudice to their respective existing mandates. In addition, in order to ensure that the working groups are able to contribute to the Mechanism while also carrying out their respective existing mandates, each working group should dedicate no more than one agenda item per session to matters pertaining to the functioning of the review process. Based on this framework, the Working Group on International Cooperation is expected to have an active role in the near future as a pillar of the Implementation Review Mechanism and in relation to its fourth thematic cluster on "International cooperation, mutual legal assistance and confiscation".

The fourteenth meeting of the Working Group on International Cooperation is scheduled to take place in Vienna on 11-12 September 2023.

UNTOC AS A LEGAL BASIS FOR INTERNATIONAL COOPERATION – DIGEST OF CASES



A digest of cases in which the United Nations Convention against Transnational Organized Crime (UNTOC) was used as a legal basis for international cooperation in criminal matters was released by UNODC in October 2021 and has been presented since then at various intergovernmental and expert forums.

On the basis of 104 cases from 34 jurisdictions, the digest contains observations about the circumstances in which States parties used, or attempted to use, the UNTOC as a legal basis for extradition, mutual legal assistance, the transfer of criminal proceedings, joint investigations or other forms of international cooperation.

The digest represents the first and most comprehensive study of the practical application of the international cooperation provisions of the Convention, as documented in actual cases. It examines the types of international cooperation involved, the regional breakdown of cases, the types of offence involved, and the interrelationship between the Convention and other multilateral, regional and bilateral instruments.

The digest was issued shortly after the twentieth anniversary of the adoption and opening for signature of the Convention. Based on its findings, it is evident that the international cooperation provisions of the Convention have been used in a considerable number of cases. Some of the cases featured in the digest reflect one of the greatest advantages of the Convention, namely its ability to be used as the sole legal basis for international cooperation where no such cooperation would have been possible otherwise.

However, the digest does not and cannot aspire to present a complete picture of the use of the Convention as a legal basis for international cooperation in criminal matters. On the contrary, the digest offers merely a snapshot of known cases, which by its nature is selective and indicative.

UNODC continues compiling information on cases involving the use of the Convention as a legal basis for international cooperation. Such information is made available online on the SHERLOC portal and will further be used as basis and reference material for the updating of the digest in future.

THE **CNA DIRECTORY** AS A TOOL TO PROMOTE INTERNATIONAL COOPERATION



The Directory of Competent National Authorities is a password-protected tool listing contact information of national authorities (central and competent authorities) involved in different forms of international cooperation in criminal matters and designated under the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the United Nations Convention against Transnational Organized Crime and the Protocols thereto (UNTOC), the United Nations Convention against Corruption (UNCAC), as well as other resolutions and recommendations of treaty-based bodies, the Security Council and the General Assembly.

Such central and competent authorities are dealing with the following:

- Mutual legal assistance • Extradition • Transfer of sentenced persons • Illicit traffic by sea of narcotic drugs and psychotropic substances • Smuggling of migrants by sea • Trafficking in firearms
- Prevention of transnational organized crime • Prevention and combating of trafficking in cultural property • Asset recovery • Prevention of corruption • International cooperation in civil and administrative proceedings relating to corruption • Judicial cooperation to combat terrorism

Access to the Directory is restricted to: a) personnel from the national authorities listed in the Directory; b) officers from authorities not listed in the Directory which are linked to, or involved in, domestic criminal investigations (that may require the assistance of competent authorities overseas) or in international cooperation in criminal matters itself; and c) Permanent Missions to the United Nations, as appropriate. Those wishing to access the Directory should communicate with UNODC to get a user account, which can be obtained by completing a request form available at: bit.ly/3zfwuxr

Member States are also regularly requested to review the information and communicate any relevant changes, using update forms available at: <https://sherloc.unodc.org/cld/en/cna-directory/update-forms.html>

REQUEST ACCESS

Request an account

UPDATE FORMS

Access the forms to update the information

THE **CNA DIRECTORY** AS A TOOL TO PROMOTE INTERNATIONAL COOPERATION

Facts and Figures

As of March 2023, the Directory had more than 2,890 registered users, contrasting with the 54 users that were using it back in 2006, when the technology was launched. Moreover, as of March 2023, the Directory provides information and contact details of more than 1,721 authorities, worldwide.



The benefits of the tool

The Directory is equipped with a strong search engine, which enables the user to narrow-down their search, by country, by the authority's mandate and by treaty provision.

Some of the advantages that the UNODC Directory offers, include the volume, variety, veracity and updating of its data, as well as velocity of its up-to-date information.

In terms of data volume, the Directory is a one-stop-shop portal to access the data of more than 1,700 central and competent authorities from over 190 countries.



In terms of data variety, the Directory includes information on central and competent authorities dealing with 16 different mandates and functions in the area of international cooperation in criminal matters. It is divided in two parts, with the first part dedicated to central authorities dealing with mutual legal assistance requests and the second one containing information on authorities dealing with extradition, transfer of sentenced persons, prevention of transnational organized crime and corruption, asset recovery, international cooperation in civil and administrative proceedings relating to corruption, particular forms of cooperation to combat drug trafficking and the smuggling of migrants, judicial cooperation in terrorist-related cases, and prevention and combating of trafficking in cultural property.

In terms of data veracity, the Directory benefits from the fact that every central and competent authority is being officially designated in accordance with a corresponding treaty-provision or United Nations resolutions.

In terms of data updating, UNODC maintains communication channels with Permanent Missions and authorities to ensure that, at least every second semester, the data contained in the Directory is reviewed and, if necessary, updated. In terms of data velocity, users of the Directory can in a matter of seconds, get a quick snapshot of the data that UNODC has constantly compiled and updated on central and competent authorities.

The online version of the Directory is fully integrated with the SHERLOC portal. An ebook version is also circulated annually to the listed authorities in the Directory and Permanent Missions.

LESSONS LEARNED FROM THE IMPACT OF THE CORONAVIRUS DISEASE (COVID-19) ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS



The coronavirus disease (COVID-19) crisis caused large-scale loss of life and severe human suffering, globally affecting every aspect of people's lives. Further, it had a profound impact on the operation of criminal justice as it has led to an increase in crimes such as the manufacturing of and trafficking in falsified medical products, as well as crimes committed online, and brought the transformation of the *modi operandi* of criminals and organized criminal groups.

Many countries introduced sweeping measures to prevent the spread of COVID-19, including lockdowns, restrictions on social gatherings and the closure of public facilities. These measures had an unprecedented impact on law enforcement and criminal justice systems.

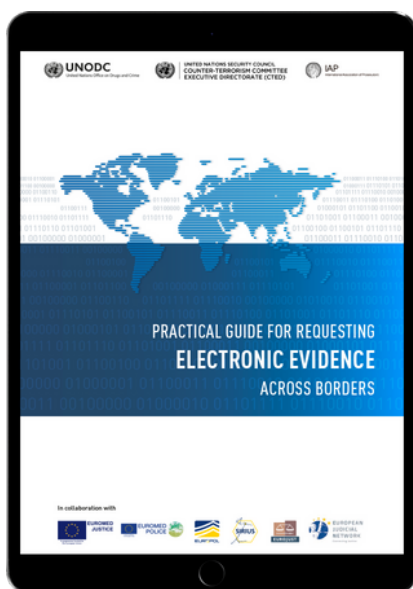
In the area of international cooperation in criminal matters, two sets of measures with a relevant impact on the administration of criminal justice were of importance: first, measures of confinement and the restriction of movement in general, and second, the closing of borders. In addition, the COVID-19 pandemic led many central authorities, as well as judicial and investigative bodies, to switch to remote working and allow for adjustments and transformations in conducting daily business. The crisis also affected the functioning of central authorities in a growing number of States.

However, the coronavirus disease (COVID-19) also offered the opportunity for the emergence of practices and trends in the field of international cooperation in criminal matters to respond to challenges encountered by criminal justice and law enforcement authorities. Such practices and trends included, among others, the following:

a) The **electronic transmission of international cooperation requests**. The conditions created by the pandemic led to greater support for the idea that international cooperation requests can be sent and answered in a safe, timely, agile and valid manner using electronic means. Central authorities of some countries enabled the secure and real-time electronic transmission of requests, by email, and prioritized those requests marked urgent.

LESSONS LEARNED FROM THE IMPACT OF THE CORONAVIRUS DISEASE (COVID-19) ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

b) **Videoconferencing.** Since the beginning of the COVID-19 pandemic, criminal justice systems worldwide tried to implement remote justice tools rapidly and on a massive scale. Although remote justice tools had already been considered, tested and used, the COVID-19 crisis enabled the use of audiovisual technologies in the judicial systems on an unprecedented scale. With the unfolding of the pandemic crisis, a rapid switch to remote justice was observed, as more States allowed courts to use audiovisual technology to conduct ordinary criminal proceedings. In particular in the field of international cooperation in criminal matters, the practice of videoconferencing was extensively used as, long before the pandemic, relevant multilateral instruments (1988 Drug Trafficking Convention, UNTOC, UNCAC) had provided for this option in their mutual legal assistance provisions.



c) **Gathering and sharing of electronic evidence.** The comprehensive physical distancing measures put in place worldwide as a response to the COVID-19 pandemic led to a considerable increase in the use of online communication by public authorities, businesses and individuals. At the same time, cybercriminals have adapted their criminal activities to exploit the social, legal and psychological aspects of the COVID-19 pandemic. Consequently, the pandemic crisis was a catalyst for a further increase of the number of mutual legal assistance requests to obtain or preserve electronic evidence. In recognition of this increase, which had been observed as a trend before the pandemic as well, UNODC has been mainstreaming the topic of electronic evidence in its work in the field of international cooperation. The Practical Guide for Requesting Electronic Evidence Across Borders, which contains information on how to gather, preserve and share electronic evidence while ensuring efficiency in mutual legal assistance practices, is an example of that effort. Both the 2018 and 2021 editions of the Practical Guide can be accessed by registered users of the CNA Directory.

In general, while the pandemic caused difficulties that had an impact on international cooperation in criminal matters, it also provided an opportunity to realize the potential for versatility, flexibility and adaptability in that field and to rethink how international cooperation should look in the future.

A significant priority for enhancing the effectiveness of international cooperation that gained further momentum in the challenging circumstances of the pandemic crisis was to continue and further improve the practice of direct communication and consultations and the sharing of information between central authorities.

The coronavirus crisis further underlined the importance of using information and communications technologies to promote communication and cooperation among central and competent national authorities.

In the aftermath of the crisis and in addressing its long-term impact, due consideration should be given to the appropriate checks and balances in place to ensure that human rights obligations and the United Nations standards and norms in crime prevention and criminal justice are respected in practice, including in the context of international cooperation in criminal matters.

HOW THE **CONSTRUCTIVE DIALOGUES** FOR THE UNTOC REVIEW MECHANISM HELP STRENGTHEN ITS FUNCTIONING

A reflection on 2022 Constructive Dialogues' positive impact with an outlook to the upcoming Constructive Dialogues in May 2023



Fostering a fruitful engagement of all relevant non-governmental stakeholders in the Mechanism for the Review of the Implementation of the United Nations Convention on Transnational Organized Crime and the Protocols Thereto (UNTOC Review Mechanism) is essential to ensure that the review process is inclusive, and that it takes into account multiple and diverse perspectives and expertise.

Constructive Dialogues – Improving the Implementation of the Convention and Protocols thereto

In their first edition in 2022, the Constructive Dialogues for the UNTOC Review Mechanism saw the participation of around 180 non-governmental stakeholders including 150 non-governmental organizations and 32 stakeholders from academia and the private sector.

The Constructive Dialogues, convened following the conclusion of the Working Groups on International Cooperation, Technical Assistance, Trafficking in Persons, Smuggling of Migrants and Firearms, offer relevant stakeholders a unique opportunity to receive briefings on the progress of the review process as well as to contribute with their inputs and suggestions to improving the functioning of the Mechanism and the implementation of the Convention and its Protocols. In particular, participants in the Constructive Dialogues have the opportunity to share their expertise and knowledge, challenges relating to the specific contexts where they operate, lessons learned and information on relevant activities carried out to address organized crime in its various forms and assist people affected by it.

HOW THE **CONSTRUCTIVE DIALOGUES** FOR THE UNTOC REVIEW MECHANISM HELP STRENGTHEN ITS FUNCTIONING



The first edition of the Constructive Dialogues in 2022 received positive feedback by the participating stakeholders. The meeting was regarded by the participants in the Constructive Dialogue convened following the Working Group on Firearms as a fruitful platform where local, regional and international expertise and knowledge could be shared. It was stressed that data and knowledge held by non-governmental organizations could help understand transnational patterns and networks of illicit firearms trafficking.

Non-governmental stakeholders have also an important role to play in promoting the implementation of the Convention and its Protocols. Several participants in the Constructive Dialogue convened following the Working Groups on Technical Assistance and International Cooperation emphasized this aspect and underscored the importance of further promoting this constructive exchange and increasing the participation of civil society organizations. Expanding the pool of expertise and knowledge provided by non-governmental stakeholders would allow further contributions in inputs and suggestions from wider perspectives for a richer discussion.

Upcoming Constructive Dialogues

The next Constructive Dialogues will be convened following the Working Groups on Firearms and Technical Assistance, respectively on 5 May and 31 May 2023.

The Constructive Dialogue on the review process following the conclusion of the 10th session of the Working Group on Firearms will host a panel discussion on “*Operationalizing the definitions of the Firearms Protocol*”. After the discussion, a tour-de-table will be held where participants from civil society will be able to intervene in relation to three agenda items: the role of civil society in the universalization and implementation of the Firearms Protocol, assistance needs and civil society engagement/participation, and gender, human rights and victim-centred approaches.

HOW THE **CONSTRUCTIVE DIALOGUES** FOR THE UNTOC REVIEW MECHANISM HELP STRENGTHEN ITS FUNCTIONING



The Constructive Dialogue convened following the Working Group on Technical Assistance will also provide participants with the opportunity to ask questions and make statements with a focus on matters pertaining to the UNTOC Review Mechanism including challenges, lessons learned and identified technical assistance needs. The session will also host a discussion relating to technical assistance needs in the prevention of organized crime including topics such as data collection and analytical processes to support the mainstreaming of a gender perspective and human rights, and the development of national strategies against organized crime.

In conclusion, the Constructive Dialogues enable non-governmental stakeholders to provide invaluable inputs with their local, regional and international expertise and knowledge on the needs and ways to implement the Organized Crime Convention and its Protocols with the ultimate goal to contribute to protecting people from organized crime.



FEATURED CASES ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

CASE I: MUTUAL LEGAL ASSISTANCE

Court of Appeal of England and Wales, A & A v. The Director of Public Prosecutions, [2016] EWCA Crim 96, Case No. 201503919 B4, Judgment of 23 March 2016

The first appellant was the Director General of the Kuwait Public Institution for Social Security between 1984 and 2014. He was under investigation by the Kuwait Authorities for public funds theft, assistance and facilitation of public funds theft, damaging public funds and money laundering while exercising his functions. The second appellant, the wife of the first appellant, was only under investigation for money laundering offences.

The appellants' UK bank accounts were restrained pursuant to a Kuwaiti mutual legal assistance request based on UNTOC and UNCAC.

The investigation had begun in 2008 after a whistle blower had made allegations against the first appellant and others. Following the investigations, Kuwait sought a restraining order in Switzerland, which was granted, and USD 100 million were restrained in Swiss bank accounts belonging to the first appellant and his family.

Information recovered as a result of proceedings in Switzerland, appeared to show that the first appellant and his family had transferred some of the money derived from illegal commission payments to other countries, including the United Kingdom. The Kuwaiti authorities then sent a request for mutual assistance to the United Kingdom asking for the restraint of the money found in several bank accounts.

On 5 March 2015, the Crown Court granted a restraint order of the appellants' bank accounts, which assets amounted to USD 23.5 million. The order had been applied for by the Director of Public Prosecutions, acting under the Proceedings of Crime Act 2002 (External Requests and Orders) Order 2005 of the United Kingdom and pursuant to the letters of request sent by Kuwait.

The appellants applied to vary or set aside the restraint order which was denied. On 23 March 2016, the Court of Appeal (Criminal Division) held its judgment on the applicants' appeal against the judge's refusal to vary or set aside the order which restrained the applicants' UK bank accounts assets. The Court of Appeal refused the appeal and the restraint order was upheld.

This case gives an example of a mutual legal assistance request made pursuant to the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). Both Kuwait and the United Kingdom are parties to the Conventions and the Court of Appeal highlighted that they both emphasised "the need to provide assistance to States parties with regards to the instrumentalities of crime."



This feature has been adapted from the original SHERLOC case entry. To find out more about this case, click [here](#) to access it on SHERLOC.

FEATURED CASES ON INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

CASE II: EXTRADITION

Attorney General of the Federation v. Rasheed Abayomi Mustapha, Charge No. FHC/L/218C/2011 (Federal High Court in Lagos, Judge P. I. Ajoku, 9 January 2012)

The accused was charged in relation to fraudulent dealing with, and embezzlement of, distribution cheques. Together with other associates, the accused gained access to retirement accounts in the United States by stealing the account owners' personal information, which he then used to take over the accounts and remove more than \$750,000. After one of the co-conspirators was arrested in the United States, the accused fled to Nigeria, where he too was arrested. The United States subsequently sought his extradition on the basis of the United Nations Convention against Transnational Organized Crime (UNTOC) and the 1931 extradition treaty between the United States and the United Kingdom, which had been made applicable to Nigeria in 1935.

The accused was extradited from Nigeria to the U.S.A. and pleaded guilty to mail fraud, money laundering and theft from a retirement account before the courts of New Jersey (USA).

In an extradition hearing before the Federal High Court, the accused argued that neither the UNTOC nor the bilateral extradition treaty was part of the domestic law and that the offences charged were not extradition offences. As a result, the Court did not have jurisdiction to effect his extradition.

The Government, in response, argued that the extradition treaty had become domestic law through a legal notice and had been gazetted in 1967 and, thus, formed part of the Extradition Decree of 1966 of Nigeria. The Government further argued that the offences identified in the extradition request were extraditable offences under Nigerian law, as well as under the UNTOC, which was ratified by Nigeria on 28 June 2001.

The Court accepted both arguments of the Government, determined that the Decree was enforceable law in Nigeria and ultimately ordered that the accused be taken into custody pending his removal to the United States, although it did not comment further on the domestic application of the UNTOC in Nigeria or on the question of whether the offences were extraditable offences under the Convention. Nevertheless, the relationship between article 16 of the UNTOC, a bilateral extradition treaty and domestic law, as well as how the offences covered by the UNTOC may be deemed to be part of the bilateral treaty, as envisaged by article 16(3) of the UNTOC, were at the heart of the case.



This feature has been adapted from the original SHERLOC case entry. To find out more about this case, click [here](#) to access it on SHERLOC.

MEET A CONTRIBUTOR

Mrs. Citlalin Castañeda de la Mora is a United Nations (UN) international civil servant, who joined the UN Secretariat, in 2009, through the Young Professionals Programme (YPP).

A national of Mexico, she has worked for OHCHR and UNODC, including in servicing intergovernmental meetings, delivering technical assistance and developing digital tools in fields such as international cooperation in criminal matters and the handling of electronic evidence for law enforcement and judicial purposes. Citlalin holds a LL.B by Universidad Panamericana and a LL.M. in International Human Rights Law by University of Essex. She has postgraduate studies in data, emerging technologies and analytics. Citlalin is fluent in Spanish, English, French, Portuguese and Italian.



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