

Comment on “Implementation of Operative Paragraph 3 of General Assembly Resolution 74/247 and Next Steps”, Status: 20 April 2020

Comments of the European Union and its Member States

The European Union (EU) and its Member States would like to thank the United Nations Office on Drugs and Crime (UNODC) for its efforts in preparing the organizational session of the ad hoc committee that will meet in August, pursuant to General Assembly resolution 74/247.

The EU and its Member States broadly supported the proposal of 20 April 2020 entitled, “Implementation of Operative Paragraph (OP) 3 of General Assembly Resolution 74/247 and Next Steps”. Following the opposition of one Member State, the UNODC Secretariat informed Member States of the ‘organizational arrangements’ it intends to undertake ‘in relation to the implementation of operative paragraph 3 of General Assembly resolution 74/247’.

In order to facilitate the work of the Secretariat towards reaching a wide support among Member States with regard to the organizational session of the ad hoc committee, the EU and its Member States wish to put forward some suggestions pertaining to the process leading to the August 2020 meeting and the upcoming negotiations.

The EU and its Member States attach particular importance to safeguarding human rights and fundamental freedoms throughout the process.

The EU and its Member States believe that the process should be:

- Inclusive: participation and adequate representation of all UN Members is fundamental; the decision-making during the August meeting and the further work of the ad hoc committee should be consensus-based; the efforts made by the UNODC to hold timely and appropriate consultations of Member States as well as regional organizations with an observer status with regard to the process are highly appreciated and the UNODC should continue to have a key organizational role throughout the process and serve as a Secretariat for the ad hoc committee, including on the documents that will be prepared for the ad hoc committee organizational session (background paper, provisional agenda), while taking into account that such preparatory process should be based in Vienna or held remotely therefrom.
- Transparent: civil society should have an adequate role, in particular with regard to the respect for human rights.
- Based on the wide expertise that is available in Member States and the UNODC, as shown in the context of past meetings of the Open-Ended UN Intergovernmental Expert Group to Conduct a Comprehensive Study of Cybercrime.
- Be committed to legal consistency: the process should aim at delivering outcome that is fully in line with the existing international legal and normative framework.

As regards the ad hoc committee organizational session, the EU and its Member States would like to focus the work solely on defining the modalities of the process. While it is legitimate to expect that in its organizational session, the ad hoc committee will define ‘a pattern of dates for future meetings’, plan of events, tasks, key dates, decision making rules, role of non-State stakeholders, and other similarly process-related issues that will set the stage for subsequent expert-driven consideration of the substantive issues, we strongly advocate that no

substance is discussed at this first meeting. We believe that any consideration of substance at the August meeting, or leading up to it, would detract from a full review of procedural options and modalities. Additionally, it would risk prematurely defining the substantive parameters without benefiting from the time, consultation and effort required for constructive and thorough expert review, including “the full consideration [of]... the work and outcomes of the open-ended intergovernmental Expert Group [and its] Comprehensive Study on Cybercrime” (as per OP2 of UNGA 74/247).

The EU and its Member States appreciate the UNODC’s continued leadership in expediting this necessary planning and organization, including by taking a strong role in drafting balanced, objective, and process-focused background materials for consideration by Member States, which will be helpful to structure to work of the ad hoc committee. This work should be limited to the outline and modalities of the process and leave any discussion on substance (including possible topics or planning of topics) to the ad hoc committee. The EU and its Member States stay ready to cooperate with the UNODC to successfully implement the above-mentioned tasks.

The European Union and its Member States believe that the principles outlined above are paramount to structure a process that would create added value for all and deliver results that increase the domestic capacities and stimulate effective cooperation between law enforcement and judicial authorities.