

INTERPOL Statement on International Cooperation

1. Executive Directorate of Legal Affairs Statement

Chairperson,

INTERPOL has received the zero draft of the Convention and appreciates the reference in Article 40 (Subsection 12(d)) to the transmission of MLA requests and related communications, via INTERPOL, in urgent circumstances as well as the reference in Article 41 (Subsection 6) to the use of INTERPOL's 24/7 networks for police-to-police cooperation and other methods of information exchange.

We stress that the Convention should aim to cover and take into account all investigative phases – both informal police-to-police cooperation, which frequently takes place in the early stages of an investigation, and the formal methods of international cooperation which involve mutual legal assistance, provisional arrest, and extradition.

INTERPOL's secure communication network is an essential tool, available to all 195 member countries and allowing for the real-time, early, and secure exchange of information as well as allowing for the transmission of MLA, provisional arrest, and extradition requests between Member States. INTERPOL should play a key role in the exchange of such information and the requests that follow, whether they are MLA, provisional arrest, or extradition requests. In particular, during the investigation stage while considering whether an MLA request will be necessary and if necessary, what information should be included in the MLA request, the informal police to police communication can be vital to the preparation of such requests. Each Member State to the Convention requires different standards to obtain evidence from their jurisdiction and frequently, even once an MLA request is sent, the information is not sufficient and the request cannot be advanced and/or the judicial order obtained, because the necessary standard of proof has not been met. Vital time is lost.

INTERPOL can play an indispensable role in the informal channels of police -to-police communication which would allow for early assessment of what is necessary, obtaining

information which can be used in furtherance of a formal request, and in ensuring that once received, the MLA, provisional arrest or extradition request can be acted upon quickly. In cyber cases especially, timing is of the essence, and delays create loss of evidence necessary to prosecute a case, find a victim, locate a perpetrator, or stop the flow of illicit funds. INTERPOL is built to assist in these important communications. Once a request for MLA, provisional arrest, or extradition is ready, its transmission through INTERPOL channels, even where the formal request may need to go through diplomatic channels (which can take many months in MLA or extradition requests), will allow for an efficient and expedited method of early review and assessment. We all agree that cybercrime is a difficult offence to track and one which knows no borders crossing all national jurisdictions - international cooperation is key and INTERPOL is at the heart of such cooperation, our ability to assist in informal and formal police cooperation should be recognized and noted in order to assist in ensuring the widest possible international police cooperation.

In this regard, we also stress the importance of including references to INTERPOL's tools and channels in Article 37, on extradition, and Article 47, on law enforcement cooperation. We note particularly that for law enforcement cooperation, INTERPOL's mission is entirely this – to promote the widest possible mutual assistance between law enforcement authorities and our communication systems are set up to do specifically what Article 47 suggests: enhancing and establishing communication channels to facilitate rapid exchange of information. Concrete proposals will be put forward in writing, in advance of the 6th Session.

I would like now to hand over the floor to my colleague from INTERPOL's Cybercrime Directorate Pei Ling Lee.

2. Cybercrime Directorate Statement

Chairperson,

As you have heard from my colleague from the INTERPOL Executive Directorate for Legal Affairs (EDLA), extradition, mutual legal assistance and the collection of evidence in electronic form are

vital instruments to combat cybercrime through international cooperation, however these form only part of the broader strategy. INTERPOL recognizes that enhancing international cooperation, in particular law enforcement cooperation covered under Article 47 of the Zero Draft, is a strategic priority for a timely and effective global response to cybercrime. We therefore reiterate that States should keep in mind the need for a broad scope of international cooperation. More importantly, the future Convention should not inadvertently duplicate existing networks, mechanisms, channels and platforms for international cooperation.

To elaborate, INTERPOL conducts its Global Cybercrime Programme by providing a wide range of **policing capabilities** to facilitate international cooperation. These capabilities include criminal databases containing data contributed by member countries, criminal intelligence analysis, fugitive investigative support and forensics. For instance, INTERPOL produces actionable intelligence for member countries' analytical and investigative purposes through its **Criminal Analysis File for cybercrime**, supported by the Gateway framework for data sharing with the private sector explained in INTERPOL's statement at yesterday afternoon's session.

Citing another example based on my colleague's earlier comments on requests for provisional arrest, with reference to Article 37 Subsection 10 of the Zero Draft, such requests may be transmitted using INTERPOL's policing capabilities in two ways: either directly to one or several member countries through the **I-24/7 secure global police communication network**, or through Red Notices issued under the **INTERPOL International Notices System** at the request of the National Central Bureau of the requesting State acting on the request of its judicial authority. INTERPOL Red Notices are recognized by some member countries as having legal value to serve as a basis for provisional arrest with a view to extradition. With these in mind, we would like to highlight our earlier proposal in our written contribution to the Fifth Session¹ to insert a sentence at the end of Article 37 Subsection 10 as follows:

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and

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https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Fourth_intersessional_consultation/20230228_INTERPOL_Written_Submission_AHC_5th_session.pdf

*are urgent, and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure the person's presence at extradition proceedings. **In case of urgency, the requesting State may transmit its request for the provisional arrest of the person through the International Criminal Police Organization.***

Coming back to the INTERPOL International Notices System, every Notice is vetted by a specialized multidisciplinary task force and published only if it complies with INTERPOL's Constitution and Rules on the Processing of Data (RPD) to ensure the legality and quality of information, as well as the protection of personal data. This vetting process applies to other types of INTERPOL Notices facilitating international cooperation and information sharing between law enforcement, such as:

- Blue Notices for additional information about a person's identity, location or activities in relation to criminal investigations,
- Purple Notices for information on modus operandi and concealment methods of criminals,
- Orange Notices to warn of events and persons posing a serious and imminent threat to public safety.

Also, in addition to using **INTERPOL's 24/7 network for computer-related crime** highlighted in Article 41 Subsection 6 of the Zero Draft to facilitate immediate assistance to collect, obtain, preserve and share evidence in electronic form, States may seek specialized forensics assistance from INTERPOL's **Digital Forensics Laboratory** to extract and access data as electronic evidence.

Aside from INTERPOL's policing capabilities, other INTERPOL mechanisms, channels and platforms to address cybercrime through international cooperation include the **Cybercrime Knowledge Exchange (CKE)** for non-operational sharing of information and the **Cybercrime Collaborative Platform – Operation (CCP-Operation)** for restricted and secure operational

exchange of intelligence and police data, as well as the coordination of joint investigations covered under Article 48 of the Zero Draft.

Only by adopting a comprehensive and coordinated approach to international cooperation utilizing INTERPOL as a unifying force, States can maximize efficiency and effectiveness in their collective fight against cybercrime. A unified effort through international law enforcement cooperation is the key to reduce the global impact of cybercrime and protect communities for a safer world, and the future Convention will not operate in a vacuum. As the only global law enforcement organization coupled with Constitutional principles of national sovereignty, respect for human rights, neutrality, and constant and active cooperation, INTERPOL is in the most appropriate position to enhance cooperation between States and their law enforcement agencies to combat cybercrime under Article 47 Subsection 2 of the Zero Draft. Therefore, we would like to highlight our earlier proposal in our written contribution to the Fifth Session to insert a sentence into Article 47 Subsection 2 as follows:

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, **in particular the International Criminal Police Organization**, to enhance the cooperation between their law enforcement agencies.

INTERPOL stands ready to further support Member States to that end.

Thank you.