



UNODC
United Nations Office on Drugs and Crime



Foreign, Commonwealth
& Development Office



PRESENTATION AND AGENDA

INFORMAL EXPERT GROUP MEETING

UPDATING THE UNODC MODEL LAW ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

17 AND 18 MARCH 2021

UNODC Counter Terrorism Learning Platform

This meeting is taking place with the generous financial support of the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland.

EXPERT GROUP MEETING PRESENTATION

Introduction

The informal Expert Group Meeting (EGM) is part of UNODC's project on "Tackling cybercrime: strengthening legislation, law enforcement and international cooperation", generously funded by the Foreign, Commonwealth and Development Office of the United Kingdom of Great Britain and Northern Ireland.

This EGM will bring together experts from across the world, with working experience in a central authority or other competent authority dealing with international cooperation requests, with a particular focus, inter alia, on requests involving electronic evidence. Representatives of a number of relevant international and regional organizations will also attend.

This meeting is organized in accordance with paragraph 15(d) of Resolution 10/4 of the Conference of the Parties (COP) to the United Nations Convention Against Transnational Organized Crime, by which the United Nations Office on Drugs and Crime (UNODC) was requested, "within its mandate, to update, as necessary, model instruments and publications, such as the Model Law on Mutual Assistance in Criminal Matters developed by the Office in 2007, with a view, as appropriate, to including provisions and updated material on the use of special investigative techniques and the gathering of electronic evidence".

Similarly, this meeting takes into account paragraph 15(a) of COP Resolution 10/4, by which the COP mandates UNODC to "provide advisory services or ad hoc legislative assistance, including on the basis of existing model legislative provisions and any future updates to such provisions." In this regard, and despite the global COVID-19 crisis, the UNODC remains dedicated to providing assistance to Member States, and in particular providing guidance on mutual legal assistance in criminal matters in these challenging times.

This EGM will be led as a stocktaking exercise to collect practices and legislative approaches from participating countries and will be followed by a second EGM planned for Autumn 2021. Meanwhile, consultations and communications with the EGM experts and participants will be maintained to continue discussions on an advanced text that will be submitted to the second EGM with the aim to verify and validate the updated Model Law. Participants will be asked to review certain provisions of the existing text of the Model Law, and to suggest amendments where they are deemed desirable or necessary based on their own national perspectives and current challenges.

Conduct of the EGM

The EGM will be conducted entirely online, on the Website of UNODC's Online Counter-terrorism Learning Platform - CTLP: <https://ctlp.unodc.org> over a period of 2 days.

The working language of the meeting will be English, with simultaneous interpretation in all six United Nations official languages (Arabic, Chinese, English, French, Russian and Spanish). The discussions will be run through KUDO, a video-conference system that allows simultaneous interpretation. Participants will be encouraged to use any of the UN official languages for their oral interventions during the meeting and may convey any additional written comments in English afterwards.

The links to live sessions are provided in the agenda below. Please note that the time mentioned is in Greenwich Mean Time (GMT). To connect to live sessions, first calculate the difference between your timezone and GMT. You can check this by clicking on the following link : <https://www.worldtimebuddy.com/>

In addition, participants will have access to a dedicated iRoom (online meeting room) on the UNODC's Online Counter-terrorism Learning Platform (CTLP), with a various range of asynchronous features, such as an online library containing all meeting material (including the working materials and the list of participants) and a forum of discussions :

<https://ctlp.unodc.org/course/view.php?id=76>

All relevant information relating to this EGM is publicly available on the UNODC webpage: <https://www.unodc.org/unodc/en/legal-tools/Model.html>

Points of contact

- For the nomination of experts and general questions, please contact Ms. **Citlalin Castaneda de la Mora**: citlalin.castaneda@un.org
- For online registration, technical and IT-related aspects, please contact the CTLP Team: Ms **Nathalie Zamaria** and Mr. **Jean-Marie Lauranson**: unodc.ctlpsupport@un.org

AGENDA

DAY 1 – 17 March 2021

Please connect to the meeting by opening the following link :

<https://live.kudoway.eu/k8/240213638563/join>

GMT TIME

11:30 - 12:00 CTLP welcoming, technical adjustments and testing of connections

- **Carine Giralidou**, Coordinator of the UNODC Counter-terrorism Learning Platform (CTLP), Terrorism Prevention Branch, UNODC
- **Nathalie Zamaria** and **Jean-Marie Lauranson**, Consultants, Terrorism Prevention Branch, UNODC

12:00 - 12:10 Welcoming remarks

- **Masood Karimipour**, Chief, Terrorism Prevention Branch, UNODC
- **Lene Doherty**, Lawyer, UK Central Authority, International Directorate, Home Office

12:10 - 12:30 Session 1: Introduction and History

This session will introduce participants to the current version of the UNODC Model Law on Mutual Assistance in Criminal Matters (2007), the context and mandates that led to its adoption as well as the extent to which it has contributed to the harmonisation of national legislative framework worldwide. Based on the resources available on the UNODC SHERLOC knowledge management portal, this session will include a comparative overview of the main characteristics of national mutual legal assistance laws in force across the participating countries, with an emphasis on shedding light on to the extent to which those laws encompass provisions on electronic evidence and special investigative techniques.

- **Arianna Lepore**, Coordinator, Global Initiative on Electronic Evidence, Terrorism Prevention Branch, UNODC
- **Dimosthenis Chrysikos**, Crime Prevention and Criminal Justice Officer, Organized Crime Branch, UNODC
- **Citlalin Castañeda de la Mora**, Terrorism Prevention Branch, UNODC

12:30 - 13:30 Session 2: Amendments to Part 4 entitled "Assistance in relation to Computers, Computer systems and Computer Data"

During session 2, participants will be invited to share domestic legislative perspectives and experience relating to requests for expedited preservation and disclosure of stored computer data (section 28), production of stored computer data (section 29) and search and seizure of computer data (section 30). Interventions should focus on the current provisions in sections 28-30 and on whether any amendments are recommended. Participants will, in particular, be asked the following questions to assist with our review of these sections of the Model law on Mutual Assistance:

1. Do your current domestic legal frameworks make provision for these forms of MLA assistance? If so, are there any areas of incompatibility between your domestic frameworks and the present texts of these provisions (sections 28-30) ?
2. Are there any aspects of your domestic frameworks which are not presently addressed in sections 28-30, but which ought to be based on your practical experience? In particular, should these sections be amended so as to address:
 - a) Assessments relating to the necessity and proportionality of requests
 - b) Grounds for refusal
 - c) Confidentiality and use limitations
 - d) Jurisdictional considerations relating to the location of evidence
 - e) Other safeguards ?

- **Dr. Micheál Ó Floinn**, UNODC Expert, Terrorism Prevention Branch

Plenary discussion

13:30 - 13:45

Break

13:45 - 14:55

Session 3: Amendments to Part 4 entitled "Assistance in relation to Computers, Computer systems and Computer Data"

Session 3 will focus on admissibility of electronic evidence, a topic that has gained significant attention since the advent of the internet and the widespread use of information and communication technologies. During the past years, the UN Security Council has, in subsequent resolutions, such as 2322 (2016), noted the increase in requests for cooperation in gathering digital data and evidence from the Internet and stressed the importance of considering the re-evaluation of methods and best practices, as appropriate, in particular related to electronic evidence. Likewise, Security Council resolution 2396 (2017) recognized the challenges faced in obtaining admissible electronic evidence and stressed the importance of improving the collection, handling, preservation and sharing of relevant information and evidence, in accordance with domestic and international law.

Bearing this in mind, session 3 will analyse both outgoing and incoming mutual legal assistance requests, from the perspective of ensuring admissibility of electronic evidence. The deliberations will be guided by the following questions:

Outgoing requests:

1 . What information and/or requirements to the format/certification, if any, must be included in the outgoing request to ensure authenticity and admissibility of e-evidence to be obtained according to your domestic laws:

- a) Types of information to be included in statements/certifications of foreign service providers (SPs);
- b) Forms and signatures of certification (electronic and/or non-electronic, notarized, sealed, stamped, etc) ?
- c) Any other ?

2. Would e-evidence produced in the format/procedure in accordance with the laws of the requested State - that are different than required by your domestic laws - be admissible in your court if it is not prohibited by your domestic laws?

Incoming requests:

1. Can the request for e-evidence be executed in accordance with any procedure specified in the request if such execution is not prohibited by your domestic laws?

2. If not, what are the requirements/limitations of the execution of incoming requests?

- **Olga Zudova**, UNODC Expert, Terrorism Prevention Branch

Plenary discussion

14:55 - 15:00 Closing remarks from Day 1

- **Arianna Lepore**, Coordinator, Global Initiative on Electronic Evidence, Terrorism Prevention Branch, UNODC

DAY 2 – 18 March 2021

Please connect to the meeting by opening the following link :

<https://live.kudoway.eu/k8/240214862306/join>

GMT TIME

11:45 - 12:00 CTLP welcoming, technical adjustments and testing of connections

- **Carine Giralidou**, Coordinator of the UNODC Counter-terrorism Learning Platform (CTLP), Terrorism Prevention Branch, UNODC
- **Nathalie Zamaria** and **Jean-Marie Lauranson**, Consultants, Terrorism Prevention Branch, UNODC

12:00 - 12:10 Wrap-up from previous day

- **Arianna Lepore**, Coordinator, Global Initiative on Electronic Evidence, Terrorism Prevention Branch, UNODC

12:10 - 13:30 Session 4: Provisions on Special Investigative Techniques

During session 4, participants will be asked the following questions to assist drafting of new clauses for cross-border requests for collection of e-evidence through special investigative techniques (SITs):

1. Which SITs for e-evidence collection should be prioritised ?
 - a) Interception of communications;
 - b) Real-time collection of traffic data;
 - c) Undercover officers online;
 - d) Any others ?

2. *How to expedite execution of SIT MLARs ?*
3. *Should the Model Law include the following requirements for MLARs ?*
 - a) *Specific technical requirements for practical use;*
 - b) *The location of the person, persons or thing subject to the SIT;*
 - c) *Why the SIT is necessary;*
 - d) *Request only for a serious crime (i.e. more than four years imprisonment);*
 - e) *Necessity for a domestic order in the Requesting State;*
 - f) *Justification for confidentiality*

- **Daniel Suter**, UNODC Expert, Terrorism Prevention Branch

Plenary discussion

13:30 - 13:40

Break

13:40 - 14:50

Session 5: Definitions

In this final session we will consider the existing definitions in s. 27 of the Model law (traffic data, service provider, computer data, computer system and subscriber data). We will explore the following questions with participants:

1. *Do the extant definitions provide a satisfactory and sufficiently detailed understanding of the terminology for the purposes of MLA frameworks ?*
2. *Are there any elements of these definitions which are incompatible with your domestic legislation ?*
3. *What further terminology may need to be defined in any revised version of part 4 of the Model Law ?*

- **Dr. Micheál Ó Floinn**, UNODC Expert, Terrorism Prevention Branch
- **Olga Zudova**, UNODC Expert, Terrorism Prevention Branch
- **Daniel Suter**, UNODC Expert, Terrorism Prevention Branch

Plenary discussion

14:50 - 15:00

Closing remarks and Way Forward

- **Arianna Lepore**, Coordinator, Global Initiative on Electronic Evidence, Terrorism Prevention Branch, UNODC