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**Conference of the Parties to the United  
Nations Convention against Transnational  
Organized Crime**  
**Fourth session**  
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Item 2 (c) of the provisional agenda  
**International Cooperation**

**Conclusions and Recommendations of the Regional  
Workshops on International Cooperation organized by  
UNODC pursuant to decision 3/2 of the Conference of the  
Parties\***

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\* This Conference Room Paper has not been edited. It contains the conclusions and recommendations adopted by practitioners at the Regional Workshops on International Cooperation.



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## I. Introduction

1. In its decision 3/2 entitled “Implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime”, the Conference of the States Parties to that Convention requested the Secretariat to organize regional workshops for central authorities, liaison magistrates and judges, prosecutors and practitioners in charge of handling cases for which cooperation is required, with a view to facilitating exchanges among counterparts and promoting awareness and knowledge of the mechanisms for international cooperation provided for under the Convention.

2. With the assistance of an advisory group of experts and financial support from France, Canada, the United States and the OSCE, UNODC was able to organize, pursuant to decision 3/2, five regional workshops on strengthening international legal cooperation to combat transnational organized crime.

3. The following workshops have been held to date: for countries of Latin America and the Caribbean, in Bogotá from 12 to 14 September 2007, in cooperation with OAS;<sup>1</sup> for Central and East Asian countries, in Kuala Lumpur from 14 to 16 November 2007, in coordination with the Office of the Attorney General of Malaysia;<sup>2</sup> for countries of the Middle East and North Africa, in Cairo from 4 to 6 December 2007, in cooperation with the Programme on Governance in the Arab Region of the United Nations Development Programme and in coordination with the Office of the Attorney General of Egypt;<sup>3</sup> for OSCE member States, in Vienna, from 7 to 9 April 2008, in cooperation with the OSCE;<sup>4</sup> and for francophone and Portuguese-speaking African countries, in Dakar, from 10 to 12 June 2008.<sup>5</sup> INTERPOL participated in and provided expertise at most of the workshops.

4. Through the regional workshops, approximately 315 practitioners from 110 countries were trained. The proceedings and outcomes of the workshops

<sup>1</sup> Sixty practitioners participated from 31 States members of OAS: Argentina, Bahamas, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States and Venezuela (Bolivarian Republic of).

<sup>2</sup> Fifty-five practitioners participated from the following 14 countries: China, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Malaysia, Philippines, Russian Federation, Singapore, South Korea, Tajikistan, Thailand, Turkmenistan and Uzbekistan.

<sup>3</sup> Fifty-five practitioners participated from the following 17 countries: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen. The Palestinian Authority was also invited.

<sup>4</sup> Ninety-five practitioners participated from the following 25 countries: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Croatia, Georgia, Germany, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Malta, Montenegro, Morocco, Netherlands, Portugal, Russian Federation, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan, and Uzbekistan.

<sup>5</sup> Fifty-one practitioners participated from the following 25 countries: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Congo, Côte d’Ivoire, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Guinea, Guinea-Bissau, Madagascar, Mali, Morocco, Mauritania, Mauritius, Niger, Sao Tome and Principe, Senegal, Togo and Tunisia.

have been summarized in the report on implementation of decision 3/2 (document CTOC/COP/2008/5).

5. The objectives of the workshops were: to facilitate exchanges and closer contacts among counterparts in international cooperation in judicial matters and to promote awareness and knowledge of the mechanisms for international cooperation provided for under the Organized Crime Convention. Participants included practitioners from the central authority handling extradition and mutual legal assistance casework related to transnational organized crime; the department of the Office of the Prosecutor General dealing with extradition and mutual legal assistance; and the investigation department of the main law enforcement agency handling transnational organized crime investigations.

6. With the exception of the first workshop, which consisted in three round-tables on selected issues related to extradition and mutual legal assistance, held in the broader framework of the Third Meeting of Central Authorities and their Experts on Mutual Legal Assistance in Criminal Matters and Extradition of the Organization of American States, the methodology of the workshops included a combination of training sessions on United Nations instruments, tools and best practices and practical discussions in smaller groups to facilitate exchanges and networking among practitioners of the region.

7. The participation of experts from the advisory group as resource persons in the workshops gave an interregional aspect to these regional events and enabled the participants to gain a broader perspective on international cooperation issues. Depending on the needs of the particular region, workshops had a greater or lesser focus on extradition, mutual legal assistance or international cooperation for purposes of confiscation.

8. Lessons learned in the first workshops were reflected upon in the advisory group and led to improvements in later workshops. Relevant documentation and materials were distributed to the participants in hard copy and on CD-ROM. Simultaneous interpretation was provided in the languages most relevant to each region.

9. The present Conference Room Paper contains the non-edited conclusions and recommendations of each of the workshops. The paper does not include proceedings and summary discussions of the workshops, nor the lists of participants and the additional supplementary documentation that was made available to the participants. Those documents can be made available upon request by the Secretariat.

## II. Conclusions and Recommendations of the Regional Workshops on “Strengthening International Legal Cooperation to Combat Transnational Organized Crime”

### A. Regional Workshop for Countries in Latin America and the Caribbean, held in conjunction with the Third Meeting of Central Authorities and Other Experts on Mutual Legal Assistance in Criminal Matters and Extradition of the Organization of American States, Bogotá, Colombia, 12-14 September 2007<sup>6</sup>

10. The central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member States met in Bogotá, Colombia, on September 12-14, 2007. The Third Meeting was held jointly with the United Nations Office on Drugs and Crime (UNODC), taking into account, in particular, UNODC’s mandates with respect to strengthening cooperation among central authorities on mutual assistance in criminal matters and extradition in the framework of the United Nations Convention against Transnational Organized Crime. UNODC organized and chaired three round tables on specific issues related to mutual legal assistance and extradition.

11. Following their deliberations, the central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member States adopted the following recommendations, to be presented for consideration at the Seventh Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas – REMJA-VII.

#### Conclusions and Recommendations of the Workshop<sup>7</sup>

##### I. *TRATADOS Y SU IMPLEMENTACIÓN*

*Que los Estados que aún no lo han hecho, a la brevedad posible, tomen las medidas que sean necesarias con los siguientes fines:*

*a. Firmar y ratificar, ratificar, o adherir a, según sea el caso, la Convención Interamericana sobre Asistencia Mutua en Materia Penal y su Protocolo Facultativo.*

*b. Firmar y ratificar, ratificar, o adherir a, según sea el caso, la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional y sus protocolos adicionales.*

*c. Adoptar la legislación y otras medidas que se requieran en el marco jurídico de cada uno de los Estados para facilitar y asegurar la aplicación de los tratados y brindar una cooperación en asistencia mutua en materia penal y extradición que sea efectiva, eficiente y expedita.*

<sup>6</sup> The full report is contained in the document: OEA/Ser.K/XXXIV, PENAL/doc.26/07 rev.1 Original: Spanish.

<sup>7</sup> The English version of the recommendations is included in Annex I of the present Conference Room Paper.

## **II. ASISTENCIA MUTUA EN MATERIA PENAL**

*Con el fin de continuar fortaleciendo la cooperación en asistencia mutua en materia penal, la Tercera Reunión recomienda:*

1. *Que los Estados que aún no lo han hecho, implementen las recomendaciones 2, 3 y 4 de la Primera Reunión, las cuales prevén medidas concretas relacionadas con el fortalecimiento y apropiado funcionamiento de las autoridades centrales; la aceleración de los procedimientos y reducción o eliminación de factores que contribuyan al retraso en la transmisión y ejecución de las solicitudes; y la ejecución del más amplio espectro de medidas de asistencia que se requieran; todo lo anterior con el fin de asegurar que la asistencia mutua en materia penal sea efectiva, eficiente, expedita, y una respuesta oportuna – dependiendo de la complejidad del caso – en el corto plazo. Asimismo, que todos los Estados informen a la Cuarta Reunión sobre las medidas concretas que adopten, entre la presente y esa reunión, en relación con las tres áreas temáticas antes citadas.*

2. *Concluir la consideración y respaldar el alcance de la propuesta relacionada con la “Ley Modelo de Asistencia Mutua en Materia Penal” (Guía Legislativa) y al respecto recomendar:*

a) *Que, de acuerdo con lo previsto en la recomendación IV, 1, c), de la REMJA-VI, se informe a la REMJA-VII y se recomiende que esta propuesta sea acogida como una guía para los desarrollos legislativos que realicen los Estados en esta materia.*

b) *Que este documento sea difundido a través de los componentes público y privado de la Red Hemisférica de Intercambio de Información para la Asistencia Mutua en Materia Penal y Extradición (“la Red”) y de su sistema de comunicación electrónico seguro, de manera que las autoridades de los Estados puedan acceder a éste cuando lo requieran y también intercambiar, por la última vía mencionada, los comentarios u observaciones que quieran compartir sobre la utilización que han hecho del mismo.*

c) *Que las autoridades centrales remitan este documento a todos los funcionarios en sus respectivos Estados que participan en el proceso de redacción y presentación de solicitudes de asistencia mutua en materia penal.*

d) *Agradecer a la delegación de Argentina por el liderazgo que ejerció en la elaboración y consideración de este documento.*

3. *Concluir la consideración y respaldar el alcance de las propuestas relacionadas con las guías de “mejores prácticas con respecto a la recolección de declaraciones, documentos y pruebas físicas”; “mejores prácticas con respecto a la asistencia mutua en relación con la investigación, congelación, decomiso e incautación de activos que sean producto o instrumento de delitos”; y el “formulario sobre cooperación jurídica en materia penal”, siempre que el ordenamiento constitucional de cada Estado lo permita y, al respecto, recomendar:*

a) *Que, de acuerdo con lo previsto en la recomendación IV, 1, f), de la REMJA-VI, se informe a la REMJA-VII y se recomiende que estos documentos sean acogidos como guías para los Estados en las materias a que éstos se refieren.*

b) *Que estos documentos sean difundidos a través de los componentes público y privado de la Red y de su sistema de comunicación electrónico seguro, de manera que las autoridades de los Estados puedan acceder a éstos cuando los requieran y también incorporar los comentarios u observaciones que quieran compartir por esa vía sobre las experiencias o sugerencias en relación con la utilización de los mismos.*

c) *Que las autoridades centrales provean estos documentos a todos los funcionarios que en sus respectivos Estados participan en los procesos de elaboración y ejecución de solicitudes de asistencia mutua en materia penal, de acuerdo con sus necesidades.*

d) *Agradecer a las delegaciones de Canadá, en lo que tiene que ver con las guías de mejores prácticas, y del Paraguay, en lo relacionado con el formulario modelo, por el liderazgo que ejercieron en la presentación y consideración de estos documentos.*

4. *Que los Estados Miembros que aún no lo hayan hecho, antes de la REMJA-VII, suministren a la Secretaría Técnica de la REMJA la información sobre los términos jurídicos de uso común en asistencia mutua en materia penal y extradición; que la Secretaría Técnica los continúe sistematizando y los difunda a través del componente privado de la Red; y que de acuerdo con lo previsto en la recomendación IV, 1, g), de la REMJA-VI, se informe a la REMJA-VII sobre los avances en esta materia.*

5. *Recomendar al Coordinador y Vice-Coordinador del Grupo de Trabajo, o a un Estado Parte, que gestionen la realización de uno o varios talleres en asistencia mutua en materia penal y la capacitación en dicha área, en coordinación con la Secretaría General de la OEA, a través de la Oficina de Cooperación Jurídica del Departamento de Asuntos Jurídicos Internacionales.*

6. *Que, conforme a lo acordado en la Reunión Extraordinaria del Grupo de Trabajo de la OEA/REMJA sobre Asistencia Mutua en Materia Penal y Extradición, celebrada en Montreal, Canadá, en marzo de 2007, los Estados Miembros, en coordinación con la delegación del Perú, hagan llegar sus opiniones y sugerencias respecto al proyecto de protocolo facultativo de confidencialidad de la información para los puntos de contacto en asistencia mutua en materia penal y extradición; envíen sus respuestas al sondeo de la legislación aplicable a la manipulación de la información que una autoridad requerida reciba de la autoridad requirente en el contexto de la asistencia mutua en materia penal y extradición; que sobre este trabajo se informe en una próxima reunión y que la información obtenida en el sondeo sea incorporada en la Red.*

7. *Teniendo en cuenta que en el marco de la REMJA se propende por la implementación efectiva de la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional y en virtud de lo establecido en el artículo 24 de dicho instrumento, se sugiere a la REMJA-VII que considere el tema relativo a la protección de víctimas y testigos y formule las recomendaciones que estime pertinentes.*

8. *Que, a fin de mejorar la cooperación internacional para fines de decomiso en la región, los Estados suministren a la Secretaría Técnica de la REMJA su*

*normativa interna sobre la materia y las posibilidades de materializar efectivamente dicha medida de asistencia, a fin de elaborar un plan hemisférico.*

### **III. EXTRADICIÓN**

*Con el fin de fortalecer la cooperación hemisférica en materia de extradición, la Tercera Reunión recomienda:*

*1. Que los Estados que aún no lo han hecho, implementen las recomendaciones II, 1, 2 y 3 de la Segunda Reunión, las cuales prevén la adopción de medidas para facilitar y asegurar la aplicación de los tratados; el fortalecimiento y apropiado funcionamiento de las autoridades centrales; y la eliminación de formalismos burocráticos; todo lo anterior con el fin de que la cooperación en materia de extradición sea efectiva, eficiente y expedita. Asimismo, que los Estados informen a la Cuarta Reunión sobre los avances que realicen en estas materias.*

*2. Que se continúe avanzando en los trabajos coordinados por las delegaciones de Brasil y México en lo que se refiere a los estudios y lineamientos destinados a fortalecer la cooperación hemisférica en materia de extradición y a este respecto:*

*a) Expresar su beneplácito con la presidencia del subgrupo de extradición ejercida por México y recomendar que se continúe considerando la propuesta de plan de acción preparada por la delegación mexicana, para que sea presentada, previo consenso de los Estados Miembros de la OEA, en la REMJA-VII.*

*b) Agradecer a la delegación de la República Bolivariana de Venezuela por el ofrecimiento de sede para la realización del tercer taller en materia de extradición en el segundo semestre de 2008.*

*c) Reconociendo la importancia de contar con un procedimiento de tramitación simplificado dentro de los Estados Miembros de la OEA, incluir este tema en el próximo taller sobre extradición que se celebrará en la República Bolivariana de Venezuela.*

*d) Que las conclusiones y resultados de los talleres en materia de extradición sean difundidos tanto en el componente privado de la Red como en su sistema de comunicación electrónico seguro, de manera que las autoridades de los Estados puedan acceder a éstos cuando lo requieran; y que también incorporen los comentarios u observaciones que quieran compartir por esa vía sobre las experiencias y sugerencias en relación con los mismos.*

*e) Recomendar que se informe a la Cuarta Reunión sobre los avances realizados en esta materia.*

*3. Expresar su beneplácito por el progreso alcanzado en el marco de la CARICOM con respecto al trámite simple de órdenes de arresto entre las autoridades judiciales de los Estados Miembros de la CARICOM y tomando nota de la inminente firma del Tratado sobre la Orden de Arresto de la CARICOM (“CARICOM arrest warrant”), instar a los Estados Miembros de la OEA a que continúen y fortalezcan el intercambio de información y experiencias sobre las órdenes de arresto consideradas en esta Tercera Reunión; e invitar a la delegación de Trinidad y Tobago a que informe en la Cuarta Reunión sobre cualquier acontecimiento que pueda darse en relación con esta importante iniciativa.*



#### **IV. RED HEMISFÉRICA DE INTERCAMBIO DE INFORMACIÓN PARA LA ASISTENCIA MUTUA EN MATERIA PENAL Y EXTRADICIÓN**

*En esta materia, la Tercera Reunión recomienda:*

1. *Continuar apoyando el fortalecimiento de la Red, y al respecto:*
  - a) *Expresar su reconocimiento por los avances dados por la Secretaría General de la OEA y su esfuerzo continuo para la obtención de financiamiento adicional para la Red y para su consolidación, mantenimiento y extensión a todos los Estados Miembros de la OEA.*
  - b) *Solicitar a los Estados que, a través de sus respectivas autoridades centrales en asistencia mutua en materia penal y extradición, respondan a las solicitudes que les formule la Secretaría General de la OEA para completar o actualizar la información que, en relación con cada uno de ellos, se difunde en los componentes público y privado de la Red. Asimismo, recomendar que la Secretaría General de la OEA continúe manteniendo dichos componentes como parte integral del sitio de la OEA en “Internet”.*
  - c) *Respaldar la utilización del sistema de comunicación electrónico seguro como una herramienta útil, eficaz y eficiente para el intercambio de información directamente entre las autoridades con responsabilidades en asistencia mutua en materia penal y extradición, y solicitar a la Secretaría General de la OEA que, en el marco de los recursos de que dispone, continúe brindando los servicios de apoyo y asistencia técnicos, así como de capacitación a dichas autoridades.*
  - d) *Recomendar que la REMJA-VII considere los medios a través de los cuales la Red pueda ser mantenida y financiada apropiadamente a largo plazo.*
  - e) *Expresar su beneplácito y agradecimiento a la delegación de Canadá por el liderazgo y cooperación en aras del fortalecimiento y consolidación de la Red.*
  - f) *Considerar la elaboración de un boletín informativo electrónico y que éste sea difundido por la Secretaría General de la OEA a través de la Red.*
  - g) *Incrementar el número de miembros del sistema de comunicación electrónico seguro y considerar la posibilidad de invitar a los Estados que no son miembros de la OEA a que participen en dicho sistema.*
2. *Expresar su agradecimiento a España por el financiamiento que ha proporcionado para las operaciones y fortalecimiento de la red y por el intercambio de información que ha fomentado con miras a explorar la posibilidad de lograr medios prácticos de cooperación recíproca entre la red anteriormente mencionada y la IberRed.*
3. *Alentar a los Estados a utilizar la “herramienta para la elaboración de solicitudes de asistencia jurídica mutua de la ONUDD” y recomendar que se establezcan enlaces recíprocos entre los componentes de la Red y la de la ONUDD en que se encuentra la información y el programa correspondiente a la citada herramienta.*

## V. **COOPERACIÓN CON LAS NACIONES UNIDAS Y OTROS ORGANISMOS INTERNACIONALES**

*En esta materia, se recomienda:*

1. *Agradecer la colaboración brindada, para la realización de esta Tercera Reunión, por la Oficina de las Naciones Unidas contra la Droga y el Delito (ONUDD) y por expertos de Estados y organismos miembros del comité coordinador (“steering committee”), específicamente INTERPOL, creado en relación con la cooperación jurídica en el marco de la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional, y recomendar que la Secretaría General de la OEA y la ONUDD continúen fortaleciendo el trabajo conjunto entre ellas, facilitando este tipo de encuentros y propiciando el intercambio de información y la cooperación entre los Estados en relación con los desarrollos dados en ambos ámbitos en materia de cooperación jurídica.*
2. *Que los Estados aprovechen al máximo las instalaciones de la INTERPOL y la IberRed, especialmente sus sistemas, canales, red e infraestructura de comunicaciones, a fin de fortalecer la cooperación internacional en materia de extradición.*
3. *Continuar organizando mesas redondas como las realizadas en esta Tercera Reunión, para la discusión de temas relacionados con la asistencia mutua en materia penal y extradición.*

(...)

## B. **Interregional workshop for Central and East Asia Countries to Combat Transnational Organized Crime, Kuala-Lumpur, Malaysia, 14-16 November 2007**

12. The workshop on “Strengthening international legal cooperation among Central and East Asian countries to combat transnational organized crime” was organized by UNODC Treaty and Legal Affairs Branch, in collaboration with the UNODC Regional Centre for East Asia and the Pacific (RCEAP) and the UNODC Regional Office for Central Asia (ROCA), and in coordination with the Office of the Honorable Attorney-General of Malaysia.

13. The workshop was held on an interregional basis, bringing together experts from two different regions, Central Asia and East Asia, to discuss practical aspects and problems in international cooperation casework.<sup>8</sup> It was decided, in view of the nature of issues raised in the casework practice among Central and East Asia States, to focus the interest and presentations on two basic areas for international

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<sup>8</sup> The following experts attended the workshop and provided their substantive input during its proceedings: *Antenor Madruga*, Brazil, UNODC Consultant; *Bridget Quayle*, Mutual Assistance and Extradition Branch, Attorney-General’s Department, Australia; *Shane Nainappan*, Senior Lawyer, Asset Forfeiture Division, Revenue and Customs Prosecutions Office, United Kingdom; *Fanny Bussac*, Magistrate, France; *Christopher Sonderby*, Attaché, American Embassy, Bangkok, Thailand, U.S. Department of Justice, Criminal Division, U.S.A.; *Hideyuki Hirose*, Attorney, International Affairs Division, Criminal Affairs Bureau, Ministry of Justice, Japan; and *Valentin Mikhailov*, Main Adviser, Department of legal aspects of security, State-Legal Administration of the President, Russian Federation.

cooperation, namely extradition and international cooperation for seizure and confiscation purposes.

### **Conclusions and Recommendations of the Workshop<sup>9</sup>**

*The participants conducted general discussions on extradition issues, as well as on legal and practical aspects related to mutual legal assistance for the purpose of seizing and confiscating proceeds of crime. In this context, they exchanged views on a number of best practices aiming at strengthening the effectiveness of international cooperation mechanisms in both areas.*

*The participants considered and recognized the added value of using the United Nations Convention against Transnational Organized Crime as an autonomous and self-standing legal basis for extradition and mutual legal assistance when these forms of cooperation are conditional on the existence of a treaty and with respect to the offences involving organized criminal groups.*

*It was pointed out that, in determining whether the double criminality requirement in extradition cases is met, a conduct-based approach should be followed.*

*The participants took into consideration that extradition is subject to conditions provided by national legislation or applicable extradition treaties, such as the grounds upon which an extradition request may be refused. It was suggested that prior consultations between the requested and the requesting State may be necessary in order to anticipate and deal in advance with issues that could be raised as potential grounds for refusal.*

*The participants acknowledged the need for simplifying evidentiary requirements related to extradition proceedings and reducing the standard of proof in such proceedings, subject to the provisions and requirements of national laws.*

*The adoption of a simplified and faster judicial review of the extradition cases was further suggested, taking into account the provisions of domestic laws and in conformity with the requirements of such laws.*

*The participants considered the adoption of a broad approach of the “extradite or prosecute” principle to enable the initiation of domestic prosecutorial action in lieu of extradition when the latter is denied not only on the grounds of nationality of the person sought but also on other grounds for refusal, as appropriate and subject to the provisions of the domestic law.*

*The participants stressed the need for building mutual trust and confidence among competent national authorities involved in extradition and cooperation for seizure and confiscation of proceeds of crime, as well as enhancing mutual knowledge of national legal systems and procedural practices in these fields of international cooperation.*

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<sup>9</sup> The following text prepared by the UNODC Secretariat intends to reflect the views expressed by the participants in their capacity as national experts and practitioners in the fields under discussion.

*Consideration was given to the innovative role that liaison “magistrates” can play in facilitating the work of central and other competent authorities where there is sufficient casework.*

*The participants took into account the work that UNODC has been carrying out in accordance with relevant mandates of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and further underlined the importance of this work for the creation of an electronic database which will contain information in all United Nations official languages on national laws implementing the international cooperation provisions of this instrument. Similar work can be undertaken in future with regard to the United Nations Convention against Corruption.*

*The participants further highlighted the importance of the innovative provisions on asset recovery of the United Nations Convention against Corruption, indicating the lack of domestic legislation to implement those provisions. It was suggested that appropriate mechanisms and arrangements need to be in place to give practical effect to those provisions. Similarly, it was proposed that domestic measures were needed to regulate and implement effectively the provisions of the United Nations Convention against Transnational Organized Crime on the disposal of confiscated proceeds of crime and their sharing with other States parties to this Convention.*

*The participants also underscored the need for further training delivered by UNODC with a view to enhancing national capacity in dealing with issues related to extradition and cooperation for seizure and confiscation of proceeds of crime. It was further suggested that training in these areas should be multi-disciplinary and cover a broad range of officers involved in such areas, including judicial and law enforcement officers and legislators.*

### **C. Regional Workshop for Countries in the Middle East and North Africa, Cairo, Egypt, 4-6 December 2007**

14. The workshop on “Strengthening international legal cooperation among countries in the Middle East and North Africa to combat transnational organized crime” was organized by UNODC Treaty and Legal Affairs Branch, in collaboration with the UNODC Regional Office for the Middle East and North Africa (ROMENA) and the United Nations Development Programme – Programme on Governance in the Arab Region (UNDP-POGAR), and in coordination with the Office of the Attorney-General of Egypt.<sup>10</sup>

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<sup>10</sup> The following experts attended the workshop and provided their substantive input during its proceedings: *Romeu Tuma Junior*, National Justice Secretariat, Brazil; *Ana Maria Nunes de Souza Belotto*, Department for Asset Recovery, Ministry of Justice, Brazil; *Iskandar Ghattas*, Egypt; *Loïc Guérin*, Mutual Legal Assistance Office, France; *Monique Hugo*, Office of the General Prosecutor, Court of Appeal of Lyon, France; *Eric Minegheer*, French Embassy in Jordan; *Ralf Riegler*, Ministry of Justice, Germany; *Fausto Zucarelli*, National Antimafia Bureau, Italy; *Jeff Cole*, American Embassy in Egypt; *Joyce Maalouly*, ICPO-INTERPOL.

## Conclusions and Recommendations of the Workshop<sup>11</sup>

### *Full use of the United Nations Convention against Transnational Organized Crime (UNTOC) as a basis for international cooperation in criminal matters*

- *States that have not yet done so should ratify, or accede to, the UNTOC and its supplementing Protocols without delay.*
- *States should criminalize in their domestic legislation the offences provided for under the Convention and Protocols, in order to establish the dual criminality basis required for the granting of assistance in criminal matters.*
- *States should thoroughly review their domestic bank secrecy requirements with a view to removing obstacles to the effective tracing, freezing and confiscation of proceeds of crime upon request from another Party to the Convention.*
- *States should, in the absence of other bilateral or regional bases for cooperation, fully use the UNTOC as legal basis for international cooperation in criminal matters.*
- *The need to guarantee fair treatment to any person subject to proceedings under the Convention should be kept in mind at all stages of such proceedings.*

### *National capacity-building and training*

- *Technical assistance for capacity-building and training of national law enforcement and criminal justice officers in charge of investigating and prosecuting organized crime and involved in international cooperation should be provided by UNODC and other providers of technical assistance, such as UNDP in the framework of its Programme of Governance in the Arab Region.*
- *Law enforcement and criminal justice officers once trained should be used in specialized functions where training received would be built upon and have a maximum impact. The establishments of units specialized in the fight against organized crime, with expertise in areas such as taxes and financial wrongdoings, was recommended as a best practice.*
- *It was recommended that UNODC expand existing legislative databases to include all legislations adopted in the area of combating organized crime including asset recovery legislation, so as to enable mutual disclosure by States of their respective legal requirements.*

### *Strengthening regional cooperation*

- *The further development and updating of Arab regional conventions and model laws on cooperation to combat organized crime as well as judicial cooperation in criminal matters by the Council of the Arab Ministers of Justice and the Council of the Arab Ministers of the Interior of the League of Arab States, including the establishment of an implementation mechanism for the Riyadh Convention on Judicial Cooperation, were welcomed and encouraged.*

<sup>11</sup> The Arabic version of the recommendations is attached in Annex II of the present Conference Room Paper.

- *It was recommended that regional institutions keep under review developments on the international legal scene in the area of cooperation in criminal matters, as a source of inspiration for the Arab region.*
- *The European Arrest Warrant, a system by which arrest warrants in relation to a list of serious crimes were mutually recognized among countries of the European Union and which allowed surrender of persons between judicial authorities within short deadlines, was in this regard considered as a model to avoid the pitfalls and delays of extradition among countries within a region.*
- *Regular meetings of authorities in charge of international cooperation in criminal matters – such as the present workshop – were recommended as useful to develop working relationships based on trust among counterparts, exchange information, discuss common concerns.*
- *UNODC ROMENA should provide fora for regular contacts among authorities in the region and promote the development of informal law enforcement and judicial networks in the Arab region, with the aim of strengthening cooperation in the fight of transnational organized crime.*

#### *Strengthening interregional cooperation*

- *In order to overcome lack of consultations, communication and understanding of each other's legal system and requirements which impede extradition and mutual legal assistance, it was recommended that UNODC organize similar workshops of authorities in charge of international cooperation in criminal matters, at an interregional level.*
- *Regions or subregions with a significant flow of incoming/outgoing requests for assistance should be brought together to get to know each other, establish a common good will and understand each other's positions and requirements.*
- *A recommendation was also formulated concerning the establishment of two groups composed of intergovernmental experts nominated by the five main regional groups for a period of three years to assist UNODC and the Member States in the area of confiscation and asset recovery on the understanding that one group would deal with the UNTOC Convention and the other with the United Nations Convention against Corruption. The Groups of experts should be entrusted with the task of providing guidance and advice, upon request, to Member States to assist them in the preparation of confiscation and asset recovery cases; providing expertise to UNODC to assist in the implementation of the recommendations of the confiscation and asset recovery working group, particularly the establishment of database containing the domestic legislation; analyzing legal and regulatory frameworks, determining basic evidentiary requirements under domestic law and preparing model provisions; preparing a practical handbook for confiscation and asset recovery tracking the asset recovery process step by step; and providing recommendations to the Conferences of the States Parties on how to streamline and overcome difficulties in the field of confiscation and asset recovery.*

## **D. Inter-Regional Workshop for Member States of the Organization for Security and Co-operation in Europe (OSCE), Vienna, Austria, 7-9 April 2008**

15. The workshop on “Strengthening international legal co-operation among member states of the OSCE to combat transnational organized crime” was organized by UNODC Treaty and Legal Affairs Branch, in collaboration with the OSCE Strategic Police Matters Unit.

16. The workshop combined plenary sessions together with smaller working groups, on dual criminality requirement/rule of speciality; on extradition of nationals/prosecution in lieu of extradition, on protection of human rights in extradition proceedings; on execution of requests and operation of central authorities; on dual criminality/ request for search-seizure confiscation; on facilitation mechanism (use of networks, liaison magistrates and officers).

17. After the conclusion of the workshop, participants were invited to evaluate the workshop itself in a rank ranging from 1 (-) to 5 (+). Most of the replies qualified the workshop with the highest degrees (4 and 5).

### **Conclusions and Recommendations of the Workshop**

#### *General recommendations*

- *States should become parties to, and effectively implement, the United Nations Convention against Transnational Organized Crime (UNTOC) and its supplementing Protocols.*
- *Parties to the UNTOC Convention should make full use of the Convention as a legal basis for requesting from, and granting to, other parties extradition and mutual legal assistance, with respect to the broad scope of offences covered under the Convention and its supplementing Protocols.*
- *States should ensure the criminalization of offences provided in the UNTOC Convention and the Protocols, as this provides the basis for the dual criminality requirement to be fulfilled in extradition and mutual legal assistance proceedings.*
- *Recommendations formulated by UNODC Informal Working Groups on Effective Extradition Casework Practice (2004) and Mutual Legal Assistance Best Practice (2001) should be used by States in their efforts to improve extradition and mutual legal assistance casework.*
- *Recourse should be made to the UN tools and model treaties and legislation on extradition and mutual legal assistance. These useful resources should be made available in all UN official languages.*
- *States should communicate to UNODC the contact details of their central authorities designated to receive, transmit or execute requests for extradition and mutual legal assistance, so that the UNODC online directory of such authorities can be used as a comprehensive and updated tool to identify and contact without delay counterparts around the world.*

- *States should find their own ways/methods appropriate to their legal systems to ensure compliance with the provisions on extradition, mutual legal assistance and international cooperation for the purposes of confiscation of the UNTOC Convention.*

*Dual criminality requirement and rule of specialty in the context of extradition*

- *Dual criminality protection should be considered satisfied, if the conduct constituting the foreign offence, had it occurred locally, would have constituted an offence under domestic law and a punishability standard is met.*
- *States should seek to reform dual criminality requirements in their domestic laws and treaties, with a view to simplifying them.*
- *The fact that there are different constituent elements as essential components of the crime in the requesting and requested States should not be a consideration in the determination of dual criminality.*
- *The naming, defining, categorizing or characterizing of offences differently in the requesting and requested States should not be factors in determining dual criminality.*
- *Methods of investigation should not be a consideration in determining dual criminality.*
- *Mutual trust and broad interpretation should be adhered to in determining dual criminality, as States embark on resorting to the extradition provisions of the UNTOC Convention.*
- *States should ensure that all offences are identified for which extradition will be sought, as this avoids problems later in seeking waiver of the rule of specialty from the requested State because the requesting State wants to prosecute for offences which occurred prior to surrender.*

*Extradition of nationals/prosecution in lieu of extradition*

- *States should make use of the options provided in the United Nations multilateral instruments to ease the strict application of the extradition of nationals restriction, as well as provide for alternatives where extradition is not feasible due to that restriction.*
- *Where necessary and if their domestic legal framework so permits, States should ensure that their bilateral treaties allow for easing extradition of nationals prohibitions.*
- *The interaction between the UNTOC Convention and regional or subregional instruments available should be pursued to regulate extradition relations among States. The availability of multiple legal bases for extradition offered by such instruments should always be taken into account to ensure effective cooperation.*
- *Technical assistance activities to enable review/updating of legislation should be promoted where States wish to amend their domestic legal framework with a view to relaxing prohibitions on the extradition of nationals.*



- *If legislative reform is not feasible, technical assistance could be directed towards enhancing the operational capacity of competent authorities to deal with practical problems and seek solutions that would ensure the effectiveness of extradition mechanisms. Such technical assistance may include training activities and the posting of liaison personnel. In the latter case, the experience gained from EUROJUST should be used as a source of inspiration for similar initiatives in other regions.*
- *Working contacts between practitioners and officers involved in extradition matters should be strengthened to enable better communication and coordination and to ensure that consultations between them can be result-oriented and effective.*

#### *Protection of human rights in extradition proceedings*

- *The refugee status of a person sought for extradition should be duly taken into consideration and adherence to the principle of non-refoulement should be ensured in extradition proceedings.*
- *While the refugee status of a person is mainly relevant where the State requesting extradition is the refugee's country of origin, the requested State should consider whether safeguards need to be put in place to prevent re-extradition from the requesting State to the State of origin.*
- *Care should be exercised to prevent use of deportation in lieu of extradition, in view of the protections afforded in extradition proceedings and lacking in case of deportation.*
- *In case of consent surrender, safeguards need to be in place to ensure that consent exists, has been given in the presence of a judicial officer and that the person understands the significance and consequences of consent.*
- *States should consider enabling temporary surrender of persons to the requesting State for the purpose of prosecution or appeal, followed by return to the requested State to complete the sentence.*
- *States should ensure that procedures are in place enabling the reconsideration of citizenship or refugee status improperly obtained to hinder extradition.*

#### *Execution of mutual legal assistance requests and operation of central authorities*

- *States should ensure that central authorities have sufficient and appropriate resources required to carry out the obligations set up in the mutual legal assistance (MLA) provisions of the UNTOC Convention, namely the transmission and speedy and proper execution of MLA requests.*
- *With a view to reducing delays in the execution of MLA requests, States should address translation problems identified as one of the main sources of delays and make full use of liaison magistrates and officers and facilitation networks as these had proven effective in reducing translation difficulties.*
- *Prior contacts between central authorities before making a request were deemed crucial, to ensure mutual understanding of the respective legal systems and requirements of the requesting and requested States. Consultation during the drafting of the request to ensure that it is complete, concise and targeted,*

*and throughout the processing of the request, in particular before postponement or refusal, were also considered essential.*

*Dual criminality in the context of mutual legal assistance/Requests for search-seizure-confiscation*

- *States should strive to provide extensive cooperation to each other and interpret liberally prerequisites to cooperation. Laws and treaties should not be applied in an unduly rigid way that impedes rather than facilitates the granting of cooperation.*
- *With regards to the dual criminality requirement in the context of mutual legal assistance, States should consider restricting the application of the principle and in particular avoiding to require dual criminality as a mandatory precondition for the granting of MLA. Moreover dual criminality should not be required with respect to non-coercive measures.*
- *As a general principle, mutual legal assistance should be provided whenever such provision is not prohibited by national legislation.*
- *States should consider the possibility of, and establish appropriate legal framework for, resorting in appropriate cases to the direct enforcement of foreign seizure and confiscation orders, as it is less resource intensive and more effective in affording assistance in time than the indirect enforcement approach.*

*Facilitation mechanisms (use of networks, liaison magistrates and officers) in the context of mutual legal assistance*

- *Recognizing that establishing liaison magistrates and officers requires designated resources, it is recommended that States consider establishing such programmes as they have proven their value in facilitating international cooperation.*
- *Consideration should be given to creating regional networks of cooperation in order to facilitate extradition and mutual legal assistance requests and/or to deploying liaison magistrates or officers to posts or regions enabling assistance to be rendered, taking due account of the frequency of requests and ensuring that the liaison personnel assigned has the requisite expertise.*
- *Regional networks should involve non-regional States, where appropriate in facilitating cooperation.*
- *States who cooperate on a regional basis should consider sharing or using common liaison personnel, possibly on a rotational basis.*
- *It is recommended that States use existing consular services and police liaison personnel in embassies and missions abroad, as employing such facilitation mechanism may prove less resource intensive than the posting of liaison magistrates.*
- *UNODC should pursue the organization of workshops or working groups bringing together States with frequent requests for international legal cooperation in order to resolve problems which arise and receive training with respect to the other States legal systems, as well as to discuss how to achieve*

*the most effective cooperation with respect to specific crimes which are particularly prevalent.*

- *Where possible States should resort to videoconferencing on a regular basis when they have frequent requests with each other, or on a periodical basis when problems or needs arise which require explanation and/or resolution. There are examples of improved cooperation in extradition and mutual legal assistance, when States resorted to monthly meeting by videoconference.*
- *Facilitation mechanisms can include methods of cooperation, other than the deployment of personnel. States are encouraged to develop model guides on how to make extradition and mutual legal assistance requests which include information regarding specific domestic legal requirements for making requests. Annotated forms or precedents for making requests which can be disseminated by States would also be of assistance in facilitating cooperation.*
- *States in the same region where request are frequently made to each other should consider developing a common form and method for making request.*
- *Long standing mechanisms of cooperation, such as those offered by INTERPOL should be resorted to. This broad based international organization can render considerable assistance in areas of international legal cooperation.*

## **E. Regional Workshop on Strengthening International Legal Co-operation Among Francophone and Portuguese-Speaking African Countries, Senegal, Dakar, 10-12 June 2008**

### ***Recommandations de l'Atelier Régional pour le Renforcement de la Coopération Judiciaire Internationale entre les Pays Francophones et Lusophones d'Afrique pour Combattre la Criminalité Transnationale Organisée***

#### ***I. Recommandations générales***

*La nécessité d'une volonté politique forte, du respect du principe de bonne gouvernance, une utilisation optimale des budgets et le scrupuleux respect des textes constitutionnels relatifs au statut des magistrats constituent des gages de traitement des difficultés de tous ordres rencontrées par les acteurs de la coopération internationale sur le terrain.*

*Tout Etat a vocation à être tour à tour Etat requis et requérant en matière d'entraide judiciaire. Les progrès d'un Etat dans sa capacité à coopérer internationalement constituent un moteur d'avancée de son système de justice pénale. La coopération internationale correspond à l'intérêt commun des Etats de lutter contre la criminalité transnationale organisée, ainsi qu'à l'intérêt national. Les Etats doivent tout mettre en oeuvre pour traduire leurs engagements internationaux dans les faits.*

## **II. Interpréter les exigences légales avec flexibilité pour favoriser l'extradition et l'entraide judiciaire**

### **Double incrimination**

*L'exigence de double incrimination est essentielle en matière d'extradition. Dans le cadre de l'entraide judiciaire, la double incrimination ne devrait pas être requise pour les mesures non-coercitives.*

*La ratification universelle de la Convention des Nations Unies contre la Criminalité Transnationale Organisée et l'incorporation dans la législation de chaque Etat des infractions prévues par la Convention et les Protocoles additionnels permettent aux Etats de satisfaire à l'exigence de double incrimination pour les formes de criminalité les plus graves.*

*L'exigence de double incrimination devrait être considérée comme satisfaite lorsque la conduite incriminée dans le pays requérant aurait constitué une infraction si elle avait été commise dans le pays requis. Le fait que les éléments de l'infraction soient définis différemment dans les Etats requis et requérant ne devrait pas entrer en ligne de compte.*

### **L'extradition des nationaux**

*Dans l'intérêt de la lutte contre la criminalité transnationale organisée et de la bonne administration de la justice, l'application du principe de non-extradition des nationaux devrait être restreinte autant que possible, dans les limites permises par la souveraineté des Etats.*

*Dans les cas où l'extradition des nationaux reste exclue, son plein effet devrait être donné au principe 'aut dedere aut judicare'. L'entraide judiciaire nécessaire pour permettre à l'Etat requis ayant refusé l'extradition d'exercer les poursuites devrait être accordée.*

*Un régime spécifique devrait être défini pour les bi-nationaux permettant dans certains cas à l'Etat requis de ne pas invoquer l'appartenance nationale de la personne dont l'extradition est demandée pour faciliter la bonne administration de la justice et prévenir l'impunité des délinquants.*

### **Autres considérations pour faciliter l'extradition et l'entraide judiciaire**

*Les refus d'extradition fondés sur des motifs politiques devraient être limités autant que possible.*

*Il est recommandé de régler le problème des frais d'acheminement des extraditables en identifiant au préalable, au moment du lancement de la requête, l'Etat devant assurer la prise en charge du coût de transfert vers l'Etat requérant.*

*Le recours aux institutions régionales (CEMAC, CEDEAO...) et leur mobilisation sont recommandés pour assurer une efficacité accrue en matière d'extradition et d'entraide. Le rôle des magistrats et autres personnels de liaison a été souligné pour faciliter la coopération judiciaire et favoriser la compréhension réciproque entre pays et systèmes judiciaires différents.*

*L'importance d'informer la société civile entre autres par le biais des médias sur l'existence du dispositif de lutte contre la criminalité transnationale organisée a été soulignée.*

### **III. Renforcer la capacité à coopérer internationalement**

#### **Formation des différents acteurs de la coopération internationale**

*Magistrats, officiers de police judiciaire, greffiers et autres auxiliaires de justice, interprètes, techniciens et autres experts doivent être formés aux activités de coopération internationale. L'évaluation fonctionnelle et professionnelle des magistrats doit prendre en compte ce volet de leurs activités. Il est également recommandé de prévoir un renforcement des capacités et une formation aux procédures judiciaires pour les traducteurs et techniciens scientifiques sollicités régulièrement.*

#### **Mise en place de l'infrastructure nécessaire à la lutte contre la criminalité organisée**

*Il est nécessaire de créer au niveau national un système de bases de données criminelles. L'établissement au niveau national d'un laboratoire de police technique et scientifique capables entre autres d'analyser les drogues saisies a également été recommandé.*

*Il est recommandé de créer un réseau de communication entre les autorités compétentes en matière de coopération internationale, notamment:*

- en dotant les acteurs de ce réseau du programme I-24/7;*
- en incitant les Etats à faire la demande auprès du secrétariat d'Interpol pour l'extension du réseau d'information I-24 /7 aux autres services chargés de l'application de la loi;*
- en utilisant pleinement et systématiquement les bureaux centraux nationaux (BCN) d'Interpol.*

#### **Diffusion des textes applicables et élaboration de manuels et autres outils**

*La diffusion des textes applicables dans les langues officielles du pays à tous les acteurs de la coopération internationale doit être assurée. La mise à disposition d'un kit de coopération comprenant des formulaires et des schémas d'intervention doit être envisagée. Les banques de données mises en place par les Etats et les institutions internationales, telle que l'annuaire développé par l'ONUDC contenant les coordonnées des autorités compétentes et des informations sur les différents systèmes judiciaires des Etats, doivent être régulièrement mises à jour et rendues accessibles aux acteurs de la coopération à tous les niveaux.*

*Il a été souligné qu'il serait utile de traduire l'outil rédacteur de requêtes d'entraide judiciaire en arabe. Pour remédier au manque de connaissance des systèmes judiciaires des pays étrangers, les Etats requérants doivent mettre à la disposition de l'Etat requis, le maximum d'informations relatives aux éléments de droit, de fait et de preuve dans la requête.*

### ***Équipement des autorités compétentes en matière de coopération***

*L'absence de matériel et de moyens de communication dont souffrent les acteurs de la coopération internationale dans certains pays ne permet pas un niveau de fonctionnement minimal des mécanismes de coopération judiciaire.*

*Il est recommandé de procéder à une analyse des besoins spécifiques en ce domaine, pays par pays:*

- en fournissant les moyens techniques minimum aux acteurs de la coopération internationale: un téléphone avec fax et accès internet, des moyens de base de transport et de liaison;*
- en dégageant des budgets pour assurer la prise en charge des consommables informatiques et bureautiques, les opérations de maintenance des matériels et le règlement des frais d'intervention des experts traducteurs;*
- en formant des techniciens locaux à la maintenance informatique.*

### ***La spécialisation***

*Aux fins d'assurer l'efficacité de la coopération internationale, le recrutement et la spécialisation de magistrats et d'officiers de police judiciaire dans la lutte contre la criminalité transnationale organisée est recommandée, pour s'assurer que les affaires dont la gravité et l'impact le requièrent soient traitées par des personnels formés, ayant les ressources et l'expérience nécessaires.*

*Il a été relevé que le non respect du principe d'inamovibilité des magistrats du siège nuit à la formation, à la capitalisation et à la transmission d'expérience des magistrats. L'excessive mobilité fonctionnelle des officiers de police judiciaire a également été relevée.*

*Pour donner son plein effet à la spécialisation des magistrats, il est essentiel que les principes d'indépendance de la justice et d'inamovibilité des juges soient respectés.*

*Il est recommandé que l'ONUDC organise un atelier d'experts pour partager l'expérience acquise dans les pays qui ont créé des juridictions spécialisées dans la lutte contre la criminalité organisée.*

### ***Création d'un réseau de communication entre autorités compétentes***

*Le rôle de l'ONUDC dans la facilitation de l'entraide au niveau inter régional a été souligné. Il est recommandé que l'ONUDC facilite la création d'un réseau global d'autorités nationales compétentes en matière d'extradition et d'entraide judiciaire ainsi que de magistrats spécialisés dans la lutte contre le crime transnational organisé, pour compléter les réseaux existant au niveau régional.*

### ***Création dans chaque Etat d'un fonds de concours***

*Il est recommandé que les valeurs mobilières et immobilières saisies dans le cadre de la lutte contre la criminalité organisée soient versées dans un fonds et affectées aux services spécialisés participant à cette lutte pour renforcer leur fonctionnement. Il s'agit par exemple de l'attribution des moyens de transport aux services d'enquêtes et de l'acquisition de matériels informatiques et de télécommunications.*

## Annex I

### **English Version of the Recommendations of the Third Meeting of Central Authorities and their Experts on Mutual Legal Assistance in Criminal Matters and Extradition of the Organization of American States, Bogotá, Colombia, 12-14 September 2007**

The central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member states met in Bogotá, Colombia, on September 12-14, 2007, pursuant to the Conclusions and Recommendations of the Sixth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas – REMJA-VI (held in Santo Domingo, Dominican Republic, in April 2006, document REMJA VI/doc.21/06 rev.1) and Resolutions AG/RES. 2266 (XXXVII-O/07) and CP/RES. 917 (1596/07), respectively, of the OAS General Assembly and Permanent Council.

This Third Meeting was held jointly with the United Nations Office on Drugs and Crime (UNODC), taking into account, in particular, that Office's mandates with respect to strengthening cooperation among central authorities on mutual assistance in criminal matters and extradition in the framework of the United Nations Convention against Transnational Organized Crime.

The Third Meeting, after underscoring and expressing its appreciation of the leadership and commitment shown by Canada as the outgoing Coordinating State of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition (the Working Group), resolved to elect, by acclamation, Colombia as the Coordinating State of the Working Group for the period October 1, 2007 to September 30, 2008, with Canada as Vice-Coordinating State; and Mexico as the Coordinating State of the Working Group for the period October 1, 2008 to September 30, 2009, with El Salvador as Vice-Coordinating State.

The Third Meeting acknowledged the existence of two legal systems, the civil and common law, and also acknowledged that the Working Group, in its deliberations, shall take these two systems into consideration.

Following their deliberations, the central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member States adopted the following recommendations, to be presented for consideration at the Seventh Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas – REMJA-VII.

#### **I. TREATIES AND THEIR IMPLEMENTATION**

That States that have not yet done so, take the necessary measures as soon as possible in order to:

- a. Sign and ratify, ratify, or accede to, as the case may be, the Inter-American Convention on Mutual Assistance in Criminal Matters and its Optional Protocol;

b. Sign and ratify, ratify, or accede to, as the case may be, the United Nations Convention against Transnational Organized Crime and its additional protocols;

c. Adopt legislation and other measures as required in the legal framework of each of the States to facilitate and ensure application of the treaties and to provide effective, efficient, and expeditious cooperation in the form of mutual assistance in criminal matters and extradition.

## II. MUTUAL ASSISTANCE IN CRIMINAL MATTERS

In order to continue strengthening cooperation in mutual assistance in criminal matters, the Third Meeting recommends:

1. That the States that have not yet done so implement recommendations 2, 3, and 4 of the First Meeting, which refer to concrete measures related to the strengthening of central authorities and the effective performance of their functions; more expeditious procedures and reduction or elimination of the factors delaying the transmission and settlement of requests; and execution of the broadest possible range of assistance measures that may be required; all of which are designed to ensure that mutual assistance in criminal matters is effective, efficient, and expeditious, and a timely response – depending on the complexity of the case – in the short term. Likewise, that all States report to the Fourth Meeting on any specific measures they adopt between this meeting and the next, with regard to the three aforementioned thematic areas.

2. Conclude the consideration and support the contents of the proposal regarding the “Model Law on Mutual Assistance in Criminal Matters” (Legislative Guide) and in that regard recommend:

a. That, in accordance with Recommendation IV.1.c of REMJA-VI, REMJA-VII be informed and that it is recommended that this proposal be taken up as a guide for development of national legislation in this field;

b. That this document be posted on both the public and private components of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition (“the Network”) and via its secure electronic communication system, so that the authorities in the States can access it and also exchange, via the aforementioned Network, any comments or observations they might wish to share on the use they have made of it;

c. That the central authorities furnish this document to all the officials in their respective States who participate in the processes of drafting and submitting requests for mutual assistance in criminal matters;

d. That the delegation of Argentina be thanked for its leadership in the drafting and consideration of this document.

3. Conclude the consideration and support the contents of the proposals regarding guidelines to “best practices with respect to the collection of statements, documents, and physical evidence”; “best practices with respect to mutual legal assistance in connection with the investigation, freezing, seizure, and confiscation of assets that are either the proceeds of or instrument for crimes”; and the “questionnaire on legal



cooperation in criminal matters,” providing that the constitutional order of each State so allows; and in that regard recommends:

a. That, in accordance with Recommendation IV.1.f of REMJA-VI, REMJA-VII be informed and that it is recommended that these documents be adopted as guidelines for States in the areas the documents refer to;

b. That these documents be disseminated on both the public and private components of the Network and via its secure electronic communication system, so that the authorities in the States can access them when they need to and also include any comments or observations they might wish to share on the use they have made of them;

c. That the central authorities furnish these documents, as needed, to all the officials in their respective States who participate in the processes of drafting and submitting requests for mutual assistance in criminal matter;

d. Thanking the delegation of Canada, with regard to the best practices guidelines, and the delegation of Paraguay, in connection with the model questionnaire, for the leading role they played in the presentation and consideration of these documents.

4. That the member States that have not yet done so submit to the Technical Secretariat of REMJA, prior to REMJA-VII, information on commonly used legal terms in the area of mutual assistance in criminal matters and extradition; that the Technical Secretariat continue to systematize them and post them on the private component of the Network; and that, pursuant to Recommendation IV.1.g of REMJA-VI, a report be submitted to REMJA-VII on progress in this area.

5. That the Coordinating State and Vice-Coordinating State of the Working Group, or a State Party make arrangements to carry out one or more workshops on mutual assistance in criminal matters and training in that field, in coordination with the OAS General Secretariat, through the Office of Legal Cooperation of the Department of International Legal Affairs.

6. That, as agreed at the Special Meeting of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition, held in Montreal, Canada, in March 2007, the member States, in coordination with the delegation of Peru, convey their opinions and suggestions regarding the draft optional protocol on confidentiality of the information for points of contact on mutual assistance in criminal matters and extradition, along with their responses to the survey on legislation applicable to the handling of the information that a requested authority receives from the requesting authority in the context of mutual assistance in criminal matters and extradition; that this work be reported at an upcoming meeting; and that the information obtained in the survey be incorporated in the Network.

7. That, bearing in mind the efforts being undertaken in the REMJA context to achieve effective implementation of the United Nations Convention on Transnational Organized Crime, and by virtue of Article 24 of that instrument, REMJA-VII consider the subject of protection of victims and witnesses and make any recommendations it deems pertinent.

8. That, in order to improve international cooperation for confiscation purposes in the region, States provide the Technical Secretariat of REMJA with their domestic

laws and regulations on the subject and with the facilities needed to effectively ensure that such assistance materializes, with a view to the drafting of a hemispheric plan.

### III. EXTRADITION

In order to strengthen hemispheric cooperation on extradition, the Third Meeting recommends:

9. That the States that have not yet done so implement Recommendations II.1.2 and 3 of the Second Meeting, which contemplate the adoption of measures to facilitate and ensure the implementation of treaties; the strengthening of the central authorities and the effective performance of their functions; and the elimination of bureaucratic formalities, so that cooperation with respect to extradition is effective, efficient, and expeditious. Also that the States report to the Fourth Meeting on the progress they make in this area.

10. That the work being coordinated by the delegations of Brazil and Mexico continue to move ahead with respect to the studies and guidelines for strengthening hemispheric cooperation in the area of extradition and in this regard:

a. Express satisfaction with Mexico's chairmanship of the subgroup on extradition and recommend that continued consideration be given to the proposed plan of action prepared by the delegation of Mexico, so that it can be presented, subject to prior agreement by the OAS member States, during REMJA-VII;

b. Thank the delegation of the Bolivarian Republic of Venezuela for offering to host the third extradition workshop during the second half of 2008;

c. Recognizing the importance of the idea of a simplified procedure within OAS member States, include this topic at the next workshop on extradition to be held in the Bolivarian Republic of Venezuela;

d. Disseminate the conclusions and results of the extradition workshops in the private component of the Network and in its secure electronic communications system, in such a way that the authorities in the States can access them when they need to; and also include any comments or observations they might wish to share through this channel on experiences and suggestions in relation to them;

e. Report on the progress on this topic to the Fourth Meeting of Central Authorities;

f. Expressing its satisfaction with the progress achieved in the CARICOM framework of a simple procedure for arrest warrants between judicial authorities of CARICOM States, and noting the impending signing of the CARICOM Arrest Warrant Treaty, urge OAS member States to continue and to strengthen the exchange of information and experience on arrest warrants considered at that Third Meeting; and inviting the delegation of Trinidad and Tobago to report to the Fourth Meeting on any developments there might be regarding this important initiative.

#### **IV. HEMISPHERIC INFORMATION EXCHANGE NETWORK FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION**

With respect to this matter, the Third Meeting recommends:

1. Continuing to support the strengthening of the Network and, in that connection, it:
  - a. Expresses its recognition of the progress made by the OAS General Secretariat and its ongoing effort to elicit additional financing for the Network and its consolidation, maintenance, and extension to all OAS member States;
  - b. Requests States to respond, through their respective central authorities on mutual assistance in criminal matters and extradition, to the requests by the OAS General Secretariat to complete or update the information on them disseminated in the public and private components of the Network. It also recommends that the OAS General Secretariat continue maintaining those components as an integral part of the OAS Internet website;
  - c. Supports use of the secure electronic communication system as a useful, effective, and efficient tool for direct exchanges of information among the authorities responsible for mutual assistance in criminal matters and extradition and requests the OAS General Secretariat to continue providing, within the resources at its disposal, technical support and assistance services, in addition to on-line training, to said authorities;
  - d. Recommends that REMJA-VII consider how the Network can be maintained and adequately funded over the long term;
  - e. Expresses its satisfaction and appreciation of the leadership and cooperation provided by the delegation of Canada for strengthening and consolidating the Network;
  - f. Suggests considering production of an electronic newsletter to be disseminated by the OAS General Secretariat via the Network;
  - g. Recommends expanding the membership of the secure electronic communication system and considering the possibility of inviting non-OAS member States to participate.
2. Expressing its gratitude to Spain for the financing it has provided for the operations and strengthening of the Network and for the exchange of information it has fostered with a view to exploring whether practical forms of reciprocal cooperation between the aforementioned Network and “IberRED” can be achieved.
3. Encouraging states to use the “UNODC tool for formulating requests for mutual legal assistance” and that reciprocal links be established between the components of the Network and the UNODC web page, which contains the information and the program corresponding to the above-mentioned tool.

## **V. COOPERATION WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS**

In this regard, the Third Meeting recommends:

1. Expressing its gratitude for the support to the Meeting provided by the United Nations Office on Drugs and Crime (UNODC) and by experts from States and agencies, especially INTERPOL, represented on the steering committee established in connection with the legal cooperation envisaged in the United Nations Convention against Transnational Organized Crime, and recommends that the OAS General Secretariat and the UNODC continue to strengthen their joint work by facilitating these kinds of encounters and fostering the exchange of information and cooperation among States in relation to developments in both these spheres regarding international legal cooperation.
2. That States make full use of the facilities provided by INTERPOL and IberRed, in particular their communications systems, channels, network and infrastructure to strengthen international cooperation in the area of extradition.
3. Continuing to organize roundtable discussions like those held during this Third Meeting to debate issues related to mutual assistance in criminal matters and extradition.

## **VI. SITE OF THE FOURTH MEETING**

Appreciate and accept the offer to host the Fourth Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, made by the delegation of El Salvador.

## **VII. ACKNOWLEDGMENTS**

The Third Meeting thanks the Colombian authorities for their hospitality and congratulates them for their commendable efforts and work as the hosts of this meeting. It also wishes to thank the OAS General Secretariat for all the support provided and the work done for the success of this meeting.

**Annex II****Arabic Version of the Recommendations of the Regional  
Workshop on Strengthening International Legal  
Cooperation Among Countries in the Middle East and  
North Africa to Combat Transnational Organized Crime,  
Cairo, Egypt, 4-6 December 2007**

ورشة العمل الإقليمية بشأن تعزيز التعاون الدولي القانوني  
بين بلدان منطقة الشرق الأوسط وشمال أفريقيا لمكافحة الجريمة المنظمة عبر الوطنية  
2007 / 6-4

**التوصيات**

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بناء القدرات الوطنية والتدريب

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### تعزيز التعاون الأقاليمي

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