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English only

Tenth session

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Item 4 of the provisional agenda*

International cooperation**Comments received on the discussion points for future consideration stemming from the twelfth session of the Working Group on Technical Assistance (9–10 July 2020)****Note by the Secretariat****I. Introduction**

1. The twelfth session of the Working Group of Government Experts on Technical Assistance took place from 9 to 10 July 2020 in a so-called hybrid/Chair format in view of the COVID-19 pandemic. At this session, the agenda items included updating the legislative records of States parties as well as application of the Organized Crime Convention in domestic jurisprudence.
2. Due to this format with all delegates connected remotely via an interpretation platform and limited meeting times, it was not possible to follow established practice of fully negotiating the draft recommendations line-by-line during the Working Group and adopting them as part of the final report.
3. Instead, the draft recommendations were entitled discussion points for future consideration and became a part of the Chair's summary of the deliberations of the Working Group. Those discussion points for future consideration were included in form of an annex in the final report of the Working Group ([CTOC/COP/WG.2/2020/3](#)) which was published in September 2020 and is available on the relevant webpage of the Working Group. As per established practice, the report, including the Chair's summary, is submitted to the Conference as part of the official documentation.
4. In order to facilitate the further consideration of the discussion points before the tenth session of the Conference, the extended Bureau approved by silence procedure on 31 July 2020, a process which had been negotiated by Member States in informal consultations under the guidance of the President of the ninth session of the Conference of the Parties. This process foresaw a so called "reflection period" in which the Secretariat, on behalf of the Chair of the Working Group, circulated the discussion points for future consideration in form of a non-paper to the Permanent Missions of Member States which registered to participate in the Working Group, as well as to all the registered delegates, before the reports were published. Within the

* CTOC/COP/2020/1.



deadline, the Secretariat to the Working Group of Government Experts on Technical Assistance received comments from Morocco and Peru.

5. This Conference Room Paper contains the discussion points as identified by the Chair of the Working Group as well as the comments received. The submissions received in other language than English (Morocco in Arabic and Peru in Spanish) were translated unofficially through the use of internal resources.

II. Comments of States parties on the discussion points of the twelfth session of the Working Group of Government Experts on Technical Assistance

Agenda item 2

Updating the legislative records of States parties in preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Stemming from the meeting, the following discussion points for future consideration were identified by the Chair of the Working Group of Government Experts on Technical Assistance and are reproduced below:

(a) States that have not yet done so should update their legislative records in the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC), including for purposes of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;

(b) The United Nations Office on Drugs and Crime (UNODC) could develop a dissemination plan to raise awareness of the usefulness of the SHERLOC knowledge management portal;

(c) States may wish to consider inviting UNODC to assist in the capacity building activities of national judicial institutions, including by providing training on the use of the SHERLOC portal as a source of information on domestic legislation and jurisprudence from various jurisdictions;

(d) States may wish to consider developing, publishing and providing to the Secretariat for publication on SHERLOC explanatory materials on legislation, such as explanatory memorandums developed during the introduction of the legislation and summarized legislative manuals or briefs that consolidate the relevant provisions of all applicable national legislation on organized crime;

(e) UNODC should consider expanding the SHERLOC knowledge management portal to include information on police-to-police cooperation;

(f) UNODC should continue to gather, disseminate and analyse information on the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, with a focus on successful practices and the difficulties encountered by States in that regard, and to develop technical assistance tools on the basis of the information gathered;

(g) States may wish to consider providing extrabudgetary resources for the further development and maintenance of the SHERLOC knowledge management portal to promote the implementation of the Organized Crime Convention and the Protocols thereto and strengthen the exchange of lessons learned and challenges in the implementation of those instruments.

Morocco

Effective implementation of the Organized Crime Convention and the Protocols thereto depends on the provision of technical assistance that enables the implementation of national institutions' strategies in the field of combating transnational organized crime. Therefore, the technical assistance mechanism can assist judicial authorities by strengthening their capacities to combat transnational organized crime and by disseminating the latest international technical means in this field. While we value what was stated in the recommendations, a group of suggestions can be referred to and States are encouraged to adopt them:

(a) Encouraging Member States to invite UNODC to provide technical assistance aimed at strengthening the capacities of judges (investigating judges, judges and prosecutors) as well as judicial police agencies in operationalizing the Organized Crime Convention and the Protocols thereto;

(b) Encouraging Member States to use the expertise of the European Union to cooperate in the field of criminal justice, with the aim of training judges and agents in handling serious and complex crimes;

(c) Encouraging Member States to cooperate with each other to facilitate training activities for judges, agents and law enforcement officials in the fight against organized crime;

(d) Encouraging Member States to introduce the electronic portal for knowledge management (SHERLOC) to the judicial authorities and authorities concerned with fighting crime because of the electronic resources it provides (laws and jurisprudence related to this type of crime);

(e) Encouraging Member States to strengthen research and jurisprudence in the field of combating organized crime and to activate the Organized Crime Convention and the Protocols thereto;

(f) Encouraging Member States to promote and facilitate the exchange of information, research and studies among themselves on best practices in combating transnational organized crime and activating the Organized Crime Convention;

(g) Encouraging Member States to strengthen their legislation and legal frameworks to combat transnational organized crime;

(h) Encouraging Member States to develop strategies and plans that include institutions and national authorities specialized in combating transnational organized crime, in order to give effect to the Organized Crime Convention.

Peru

In general, we agree with the discussion points proposed for future consideration. Moreover, we allow ourselves to make the following comments:

It is necessary to update the SHERLOC portal, as well as the dissemination of the services contained in this platform, which has a database of legislation, legislation from many countries, as well as the electronic evidence section, as this information is useful for criminal justice practitioners in the investigation and prosecution of organized crime.

Similarly, we consider it necessary to constantly update the Competent National Authorities Directory, which will allow establishing direct contact between officials as well as coordination to better address the requirements within the framework of international judicial cooperation.

Agenda item 3

Application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence

Stemming from the meeting, the following discussion points for future consideration were identified by the Chair of the Working Group of Government Experts on Technical Assistance and are reproduced below:

(a) In order to facilitate law enforcement and judicial cooperation, States should fully implement the Organized Crime Convention;

(b) States should consider strengthening the ability of law enforcement and criminal justice officers;

(c) In implementing the provisions of article 6 of the Organized Crime Convention, States should consider reviewing their national legislation so as to facilitate efforts to address practical elements of criminalization of the laundering of proceeds of crime, including the requisite element of mens rea;

(d) States should consider requesting or providing training on mutual legal assistance and other forms of international cooperation in obtaining evidence and witness testimonies, including on predicate offences to money-laundering. Such assistance should at a minimum cover the relevant provisions of the Organized Crime Convention and include the obtaining of evidence, the preservation of stored computer data and the real-time collection of traffic data, if permitted under the basic principles of the domestic legal system;

(e) States should consider allocating sufficient resources to manage cases involving organized criminal groups in a streamlined and timely manner, to facilitate successful prosecution;

(f) In cases involving organized criminal groups, in particular complex cases involving transnational organized crime, States should consider developing prosecution plans as early as possible. Such plans could take into consideration the management of evidential and other issues, including procedures to address anticipated challenges;

(g) States should consider developing standard operating procedures in collaboration with court administrations and others to facilitate the effective management of cases involving organized criminal groups, as such cases may represent security and other logistical challenges. States may wish to include witness protection measures in such procedures;

(h) States that have not yet done so should consider making the decisions and opinions of their courts and tribunals concerning organized crime accessible to the public in order to further the aims of the Convention.

Peru

In view of the commitments assumed at the international level by the States Parties, the Convention must be used as a legal basis to render mutual legal assistance and extradition; in the case of Peru, the Organized Crime Convention has been used as the legal basis in active requests in investigations for the crimes of money laundering, drug trafficking and corruption. Similarly, we consider it important to encourage the formation of joint investigation bodies, since they contribute to effective fight against transnational organized crime.

We consider it necessary to strengthen the channels of international judicial cooperation, as well as encouraging the use of electronic means to share information between the various Central Authorities, which has been very useful during the COVID-19 pandemic.