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English only

Working Group on International Cooperation

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Possible synergies with the expert group on international cooperation, established by the Conference of the States Parties to the United Nations Convention against Corruption

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Background paper by the Secretariat

I. Introduction

1. In accordance with the decision of the Extended Bureau of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime held on 16 December 2011, one item on the agenda of the Working Group on International Cooperation will be dedicated to pursuing synergies with the expert group on international cooperation established by the Conference of States Parties to the United Nations Convention against Corruption. The Extended Bureau also agreed that recommendations emanating from the Working Group on this matter would be transmitted to the expert group established under the Convention against Corruption, which will take place the week after the sixth session of the Conference of the Parties to the Organized Crime Convention.

II. Background and justification

2. The open-ended working group on international cooperation, established by the Conference of the Parties to the United Nations Convention against

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Transnational Organized Crime (the UNTOC working group) is invited to consider synergies with the open-ended intergovernmental experts meetings on international cooperation convened by the Conference of States Parties to the United Nations Convention against Corruption by its resolution 4/2, adopted at its fourth session held in Marrakesh in October 2011 (the UNCAC experts meeting).

3. The necessity for having cooperation and coordination of the work of the two groups arises primarily from the fact that the issue of international cooperation is at the core of both conventions. Even though the mandate of the UNTOC working group is set out by Conference resolution 2/2 very broadly, while that of the UNCAC experts meeting is specified in COSP resolution 4/2, in effect the two groups are expected to work on similar issues.

4. The UNTOC working group holds substantive discussions on practical issues pertaining to extradition, mutual legal assistance, international cooperation for the purpose of confiscation of proceeds of crime and transfer of proceedings. Delegates to the working group generally include representatives of central authorities as well as other government experts.

5. The UNCAC expert meeting, the first of which will be held in October 2012, is mandated by the UNCAC Conference of States Parties resolution 4/2 of 2011, to perform the following functions:

(a) Assist the Conference in developing cumulative knowledge in the area of international cooperation;

(b) Assist the Conference in encouraging cooperation among relevant existing bilateral, regional and multilateral initiatives and contribute to the implementation of the related provisions of the Convention under the guidance of the Conference;

(c) Facilitate the exchange of experiences among States by identifying challenges and disseminating information on good practices to be followed in order to strengthen capacities at the national level;

(d) Build confidence and encourage cooperation between requesting and requested States by bringing together relevant competent authorities, anti-corruption bodies and practitioners involved in mutual legal assistance and extradition;

(e) Assist the Conference in identifying the capacity-building needs of States.

6. Over the years, the UNTOC working group has had four sessions during which it has considered many of the issues covered by the UNCAC experts meeting mandate. There is clearly a lot of overlap in the work of the two groups.

7. Some of the advantages of having synergies between the two groups can be broadly stated as follows:

(a) The two groups have similar mandates to discuss matters relating to international cooperation;

(b) At the national level, it is likely that the same central authorities will deal with international cooperation for cases involving corruption and organized crime. Therefore, it is likely that many of the same governmental experts will attend both meetings;

(c) The articles on international cooperation in both conventions are largely identical, except that the Corruption Convention contains more detail or slightly different approaches in some areas or integrates provisions on international cooperation for purposes of confiscation into a separate chapter on asset recovery;

(d) The UNTOC working group has been a constant element of the Conference of the Parties to the Organized Crime Convention for some time now, and the experience gained can be of value to the UNCAC experts meeting in terms of the areas of concern and relevance for practitioners who have to deal with international cooperation at the domestic level; and, vice versa, the UNCAC experts meeting is expected to build on the findings of completed country reviews regarding the implementation of chapter IV of the Corruption Convention on international cooperation. In that sense, the links to the work of the UNCAC Review of Implementation Mechanism may also be of great value for the UNTOC working group, bearing in mind the ongoing efforts to put in place a review mechanism for evaluating the implementation of provisions of the Organized Crime Convention (and its Protocols), including those on international cooperation;

(e) A number of best practice examples are already emerging from the implementation reviews that have been undertaken under the UNCAC, the sharing of which could be of particular advantage to the UNTOC working group;

(f) Within the Secretariat, there already exists significant coordination of activities between the branches dealing with implementation of the two conventions, particularly in the development of technical assistance tools for international cooperation and provision of training and legal and technical assistance. For example, the Mutual Legal Assistance Request Writer Tool was jointly developed by the two branches and now is being amended to include aspects of assets recovery. The handbooks on extradition and mutual legal assistance and on international cooperation for purposes of confiscation of proceeds of crime were developed with the close cooperation of the sections.

III. Recommendations

8. The working group may consider ways of synergizing the work of the two groups in order to avoid duplication, maximize resources and ensure complementarity. In that regard, the working group may consider, among others, the following:

(a) The working group may consider recommending that the meetings of the UNTOC working group and the UNCAC experts meeting be held back-to-back with a view to synergizing issues of relevance to both conventions. Either meeting may discuss issues specific to their relevant convention and also cross-cutting issues. Both could report to both conferences, either through a joint report or through separate reports;

Alternatively,

The UNTOC working group may consider recommending that the UNTOC working group and the UNCAC expert meeting hold joint meetings and submit a joint report to both conferences. Such joint meeting could consider general issues of international cooperation and issues specific to both conventions;

(b) Request that the Secretariat to both the UNTOC working group and the UNCAC experts meeting ensure that all information and reports from the meetings are made available to States parties of both Conventions;

(c) Request that the United Nations Office on Drugs and Crime, in its activities in support of international cooperation in extradition, mutual legal assistance and cooperation for purposes of confiscation under various United Nations instruments, should seek to coordinate and develop synergies with work carried out in other forums in order to avoid duplication of work and giving due regard to the specificity of each instrument.
