



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: expert consultation on international cooperation, with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities

Work done by the United Nations Office on Drugs and Crime to promote the implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime

Report of the Secretariat

I. Introduction

A. Open-ended working group of government experts on international cooperation

1. At its second session, held in Vienna from 10 to 21 October 2005, by decision 2/2, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to establish at its third session an open-ended working group to hold substantive discussions on practical issues pertaining to extradition, mutual legal assistance and international cooperation for the purpose of confiscation. It encouraged States parties to include representatives of central authorities and other government experts in their delegations to the third session of the Conference of the Parties, with a view to their attending the open-ended working group.

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2. The open-ended working group of government experts on extradition, mutual legal assistance and international cooperation for purposes of confiscation accordingly met during the third session of the Conference of the Parties, held in Vienna from 9 to 18 October 2006. In decision 3/2, the Conference, noting that the discussion of the open-ended working group had been held in an environment of cooperation and goodwill and involved a fruitful exchange of ideas and experiences regarding the implementation of the United Nations Convention against Transnational Organized Crime (the “Organized Crime Convention”),¹ decided that an open-ended working group on international cooperation would be a constant element of the Conference of the Parties.

B. Development of tools to promote international cooperation

3. In decision 3/2, the Conference of the Parties also requested the Secretariat to develop and promote a number of tools aimed at facilitating international cooperation, in particular an online directory of central authorities (designated under the Organized Crime Convention to receive requests for extradition and mutual legal assistance), a virtual network of such authorities and competent authorities for extradition requests, the Mutual Legal Assistance Request Writer Tool and a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Organized Crime Convention. The work carried out by the United Nations Office on Drugs and Crime (UNODC) to develop these tools is reflected in chapter II of the present report.

C. Strengthening the capacity of central and other competent authorities

4. In decision 3/2, the Conference of the Parties, noting that close working contacts between central authorities were crucial to the efficient granting of international legal cooperation pursuant to the Organized Crime Convention, further requested its secretariat to organize workshops for central and other competent authorities, liaison magistrates and judges, prosecutors and practitioners in charge of handling international cooperation cases, with a view to facilitating exchanges among counterparts and promoting awareness and knowledge of the mechanisms for international cooperation provided for under the Organized Crime Convention. Information on UNODC activities to strengthen the capacity of central authorities, in particular through the holding of a series of workshops for authorities and practitioners of international legal cooperation, is provided in chapter III of the present report.

¹ United Nations, *Treaty Series*, vol. 2225, No. 39574.

II. Tools developed to promote international cooperation in criminal matters

A. Online Directory of Competent Authorities

5. In decision 3/2, the Conference of the Parties requested the Secretariat to set up, within existing resources and as a matter of priority, an online directory including central authorities designated under article 18 (mutual legal assistance) of the Organized Crime Convention, authorities competent to deal with requests made under articles 16 (extradition) and 17 (transfer of sentenced persons) of the Convention, as well as authorities designated under article 8 (measures against the smuggling of migrants by sea) of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the “Migrants Protocol”).² It further provided instructions to the Secretariat as to the data, additional information and links that should be included in the directory. It requested the Secretariat to consider the practicability of consolidating such an online directory under the Convention with existing or future directories under other international instruments, such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances³ of 1988 (the “1988 Convention”) and the United Nations Convention against Corruption.⁴

6. Since the entry into force of the 1988 Convention, UNODC has been collecting information from States parties to that Convention on authorities designated under articles 6 (extradition), 7 (mutual legal assistance) and 17 (illicit traffic by sea). Following the directions provided by the Conference of the Parties in decision 3/2, the secretariat decided to expand the existing Directory of Competent National Authorities under the 1988 Convention, which had already been made available online. It was ascertained, by comparing the lists of authorities under each of the two conventions, that in many States the authorities designated for receiving and sending requests for mutual legal assistance and extradition were the same for both conventions. In addition to expanding the Directory to cover authorities designated under the Organized Crime Convention and the Migrants Protocol, UNODC upgraded the Directory to include the features listed in decision 3/2. Work on expanding and upgrading the Directory was carried out throughout 2007, with 174 authorities designated by 89 States under the Organized Crime Convention and the Migrants Protocol being added, and in December 2007 the consolidated Directory was launched.⁵

7. The Directory contains full contact details for the designated authorities, office hours, time zones, languages, the information or documents required for requests to be executed, the formats and channels accepted, whether or not requests may be

² United Nations, *Treaty Series*, vol. 2241, No. 39574.

³ United Nations, *Treaty Series*, vol. 1582, No. 27627.

⁴ United Nations, *Treaty Series*, vol. 2349, No. 42146.

⁵ The directory of competent national authorities under articles 6, 7 and 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and articles 16, 17 and 18 of the United Nations Convention against Transnational Organized Crime and under article 8 of its Protocol against the Smuggling of Migrants by Land, Sea and Air is available at www.unodc.org/compauth/en/index.html.

made through the International Criminal Police Organization (INTERPOL), specific procedures in urgent cases and a “comments” field. The comments field allows States to provide additional information, as suggested in decision 3/2, such as summaries of legal and procedural requirements for the granting of requests for extradition or mutual legal assistance, links to national laws and relevant websites, a list of treaties on bilateral and regional cooperation concluded by those States or any alternative arrangement available in respect of extradition or mutual legal assistance. Information on whether a State party has declared, pursuant to article 16, paragraph 5, of the Organized Crime Convention, that it would use the Convention as the legal basis for extradition is also provided.

8. The introductory page to the Directory includes links to the relevant provisions of the Organized Crime Convention and the Migrants Protocol, as well as links to the Mutual Legal Assistance Request Writer Tool developed by UNODC, reports on workshops organized by UNODC on best practices in the area of international cooperation, United Nations model treaties, manuals and model laws, as well as to the legal library, which contains national laws implementing the drug conventions⁶ (including in the cross-cutting areas of extradition, mutual legal assistance and confiscation pursuant to a foreign request). In addition, the secretariat created links from the specific pages of the central authorities to the national laws of countries in the areas of extradition and mutual legal assistance by inserting URLs in the comments field.

9. Access to the expanded Directory is currently limited to the designated authorities themselves,⁷ as was the case for the Directory of Competent National Authorities under the 1988 Convention. The main considerations in limiting access to the Directory were the concern for the privacy and safety of the staff of the central authorities, who, in some cases, are identified by name with personal contact details; and the purpose of the Directory, which is to provide designated authorities with easy access to the updated contact information of their counterparts. By decision 3/2, the Conference of the Parties requested the Secretariat to consider allowing each State party to decide whether information provided by it should be made freely accessible or whether access should be limited to authorized users. Information technology specialists consulted by the secretariat raised the issue of technical complications arising from the suggested approach. The Conference may wish to provide further guidance to the secretariat on this point and consider the possibility of reaching a unified position on whether or not access to the Directory should be limited.

10. The Directory is regularly updated, on the basis of notifications from States alerting UNODC to any changes in the designation and contact details of their authorities. In addition, UNODC regularly publishes the Directory. It provides the hard copy publication to the permanent missions of Member States to the United Nations and sends it to designated authorities by post, requesting them to update

⁶ The scope of the UNODC legal library of legislation adopted to give effect to the international drug control conventions (www.unodc.org/enl/index.html) could be expanded to include legislation adopted to give effect to the Organized Crime Convention and its Protocols (see CTOC/COP/2008/2, para. 20). Such an expansion would also represent an enhancement of the online directory.

⁷ Access requires a password, provided by UNODC upon a request sent via the online application form.

their records. In order to enable direct updating of the contact details by the authorities themselves, an advanced feature was developed by the secretariat, as recommended by decision 3/2, allowing central authorities with passwords to edit their own records, subject to review and approval by the secretariat. A log of changes indicates the date of the last update of each record.

11. UNODC is considering a further expansion of the Directory to include authorities designated under article 13 (cooperation) of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime,⁸ which requests each State party to identify a national body or a single point of contact to act as liaison between it and other States parties on matters related to the Protocol. UNODC will liaise with other United Nations agencies with a firearms mandate in order to ensure the coordination of efforts in maintaining lists of national authorities.⁹

12. Further, pursuant to decision 3/2, in which the Conference of the Parties requested the secretariat to consider the practicability of consolidating the online Directory with existing or future directories under other international instruments, such as the United Nations Convention against Corruption, the secretariat is considering the expansion of the Directory to include authorities designated for extradition and mutual legal assistance under the United Nations Convention against Corruption. Integration into a single directory of all authorities designated under the United Nations drug and crime convention provisions on extradition and mutual legal assistance may be instrumental in encouraging what has been identified as a good practice: avoiding the designation of different authorities for different groups of offences.¹⁰

B. Virtual network of central authorities

13. By its decision 3/2, the Conference of the Parties further requested the secretariat to provide its support to the building up of a virtual network of central authorities for mutual legal assistance and competent authorities for extradition requests designated under the Organized Crime Convention, and to facilitate communication and problem-solving among such authorities by considering the setting up of a discussion forum on a secure network. It also encouraged those authorities to make use of existing regional networks.

⁸ United Nations, *Treaty Series*, vol. 2326, No. 39574.

⁹ Such as the list of national points of contact for the implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (adopted by the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects on 20 July 2001).

¹⁰ The Informal Expert Working Group on Mutual Legal Assistance Casework Best Practices, which met in Vienna in 2001, drew attention to the potential for fragmentation of effort and inconsistency of approach if different authorities were designated for different groups of offences. Consistency of authorities under different treaties makes it easier for other States to contact the appropriate authority for all kinds of mutual legal assistance and facilitates greater consistency of mutual legal assistance practice for different kinds of criminal offences. This applies equally to extradition.

14. Numerous judicial cooperation networks exist at the regional level, including the Commonwealth Network of Contact Persons, the European Judicial Network, the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States (OAS) and the Ibero-American Legal Assistance Network of judicial authorities of Spanish- and Portuguese-speaking countries. Their objective is to improve judicial cooperation by enabling direct personal contact and the sharing of information relevant to practitioners and by facilitating speedy informal problem-solving. In certain regions, however, no such network appears to be in place, nor does a network exist to link judicial authorities involved in international cooperation to fight organized crime at the global level.

15. In considering steps to be taken for the establishment of a virtual network, the secretariat determined that the development of the online Directory of Competent Authorities designated under the Organized Crime Convention was a prerequisite. The designation by States of their central or competent authorities was a building block for the establishment of a network of such authorities. Enabling authorities to contact each other directly and speedily through mutual disclosure of their contact details, including e-mail addresses, was a first step in facilitating communication and problem-solving among authorities. The secretariat therefore gave priority to expanding and upgrading the online Directory and enriching it with links to relevant and helpful resource materials such as laws, treaties, guidelines, manuals and forms. The secretariat has also undertaken to set up on the UNODC public website an international cooperation page, including all relevant UNODC resources and materials, as well as links to existing regional networks so that information publicly available there can be made centrally accessible.

16. A further step towards the building up of a network as recommended by the Conference of the Parties in its decision 3/2 was accomplished through the holding of a series of regional workshops, in which heads of the central or other competent authorities were invited to participate. The workshops enabled authorities to network, strengthen their working relationships and discuss problems and propose strategies to solve them (see chapter III of the present report).

17. The Conference of the Parties may wish to guide the secretariat on the further action needed to set up the requested network of central authorities of States parties to the Organized Crime Convention, taking into account gaps in the coverage of existing networks, in particular with respect to least developed countries. Building on the regional meetings already held, a meeting of all authorities could be envisaged, allowing cross-regional networking. UNODC is also further exploring needs in terms of assistance and facilitation of international cooperation required for the smooth functioning of a global network, such as the provision of helpdesk-type services to assist States in solving concrete cases where cooperation is hindered, and the devising of information technology solutions to ensure confidentiality and security of communications. Complementarity and links to existing networks will also need to be considered and ensured.

C. Mutual Legal Assistance Request Writer Tool¹¹

18. In decision 3/2, the Conference of the Parties welcomed the development by UNODC of the Mutual Legal Assistance Request Writer Tool to assist criminal justice practitioners in drafting correct and effective requests, thereby enhancing cooperation between States, and encouraged the use of the tool, when appropriate, for requests for mutual legal assistance pursuant to the Organized Crime Convention and its Protocols.

19. Since the development of the Mutual Legal Assistance Request Writer Tool, presentations on it have been made at many conferences, seminars and training sessions held for central authorities and other Government representatives. In order to download the Request Writer Tool, users are required to fill in an application form and obtain a password. To date, 183 users have requested and received the Request Writer Tool. Users were informed of the launch of the online, expanded Directory of Competent Authorities in order to enable them to obtain the most updated contact information of authorities, to complement their use of the Request Writer Tool.

20. Participants in meetings where the Request Writer Tool has been demonstrated have praised its usefulness, both as an aid to drafting mutual legal assistance requests and as a means of training staff on the requirements for effective requests. In order to receive more feedback from authorities on their actual use of the Request Writer Tool, the secretariat requested users that have downloaded it to reply to a brief set of questions. The responses received included positive feedback, but were not exhaustive and did not enable the secretariat to build a complete picture of the use of the Request Writer Tool.

21. With a view to promoting the use of the Request Writer Tool, as encouraged by the Conference of the Parties in its decision 3/2, UNODC is considering organizing training activities on the Request Writer Tool in the Caribbean region (in conjunction with the regional workshop to be held at the end of 2008 for countries of the region (see para. 34)). Training would be provided to authorities on the use of the Request Writer Tool to draft requests and on the execution of requests based on the Request Writer Tool. It has been recognized that the mutual legal assistance workflow between Caribbean and Latin American jurisdictions is being hindered by differences in legal systems. Therefore training in, and testing of, the Request Writer Tool is of particular relevance to the region. This would also enable UNODC to receive substantiated feedback from States on experience gained in using the Request Writer Tool and assess needs for improving it.

22. The Conference of the Parties, in its decision 3/2, also welcomed the preliminary work done by UNODC to develop a tool for writing extradition

¹¹ This Mutual Legal Assistance Request Writer Tool has been designed to guide casework practitioners through the drafting of requests. They fill in the various data fields, selecting drop-down menus in each template. When completed, the programme automatically generates a correct and complete request. It also gives access to relevant bilateral, multilateral and regional treaties and agreements and national laws, and includes a case-management tracking system for incoming and outgoing mutual legal assistance requests. The Request Writer Tool is available in English, French, Russian and Spanish, with user manuals in those languages. Portuguese and Arabic versions are at the final testing stage.

requests. Further development of the extradition request writer tool has, however, been suspended by UNODC due to a lack of human and financial resources. As a preliminary step to any further development of the extradition request writer tool, UNODC would also need further guidance from Government experts on what specific facilitation needs the tool is expected to meet, given that obstacles to extradition are usually less technical than obstacles to mutual legal assistance.

D. Catalogue of examples of cases

23. In decision 3/2, the Conference of the Parties emphasized that the Organized Crime Convention was being successfully used by a number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for the purposes of confiscation. It encouraged States parties to make greater use of the instrument as a legal basis for international legal cooperation, recognizing the broad scope of cooperation available under the Convention; and in particular to utilize the Convention and the Protocols thereto when other bases for cooperation, such as bilateral agreements and domestic law, did not provide for effective international legal cooperation. It further encouraged States parties to promote awareness of the Convention among central authorities, judges, prosecutors, law enforcement officers and INTERPOL national central bureau officers engaged in international legal cooperation in the fight against transnational organized crime.

24. In the course of workshops and training activities organized to promote and facilitate international cooperation in criminal matters (see chapter III of the present report), the secretariat systematically reinforced the message conveyed by the Conference of the Parties in decision 3/2. It emphasized, in particular, the relevance and usefulness of the provisions of the Organized Crime Convention on international cooperation in an interregional context, where bilateral or regional treaties are not available. Moreover, in cases where bilateral treaties exist, but are outdated and do not include a complete list of offences, those treaties are deemed, by virtue of article 16 (extradition) of the Organized Crime Convention, to include Organized Crime Convention offences.

25. The secretariat also clarified the scope of application of the international cooperation provisions of the Organized Crime Convention: those provisions apply to offences established pursuant to the Convention and the Protocols thereto and to all serious crime.¹² Through its criminalization provisions, the Organized Crime Convention provides the basis for the dual criminality requirement to be fulfilled among the more than 140 States that have become parties to it. This constitutes a remarkable facilitation of the provision of international cooperation in the fight against organized crime. The condition that the offence be transnational in nature (art. 3, para. 1, of the Organized Crime Convention) is partly lifted in the context of international cooperation: the transnationality requirement is met if the person who is the subject of the request for extradition is located in the territory of the requested State party (art. 16, para. 1, of the Organized Crime Convention) or if victims,

¹² “Serious crime” is defined by article 2 of the Organized Crime Convention as “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty”.

witnesses, proceeds, instrumentalities or evidence of offences are located in the requested State party (art. 18, para. 1, of the Organized Crime Convention). These provisions facilitate the provision of evidence in support of extradition requests and allow mutual legal assistance to be requested at an early stage of the investigation, where it may be difficult to prove that all the requirements of article 3 have been met.

26. The Conference of the Parties, in its decision 3/2, requested the secretariat to compile a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Organized Crime Convention in order to encourage States parties to improve their implementation of the Convention and the Protocols thereto. It also encouraged States parties to provide the secretariat with data concerning their reliance on provisions of the Convention and its Protocols to effect extradition, mutual legal assistance and other forms of international legal cooperation.

27. It should be noted that article 16, paragraph 4, of the Organized Crime Convention states that States parties that make extradition conditional on the existence of a treaty (usually States with a common law tradition) may consider the Convention the legal basis for extradition in their relations with other parties. Twenty-six States parties¹³ have notified the secretariat that they would take the Convention as legal basis. States parties that need a treaty basis for extradition should be encouraged to avail themselves of the possibility set out in article 16, paragraph 5 (a), of taking the Convention as sufficient legal basis for cooperation on extradition and to notify the Secretary-General of the United Nations accordingly.

28. The secretariat, in the course of workshops and other training activities it organized, endeavoured to collect from competent authorities and practitioners information on cases where the Organized Crime Convention had been used as a basis for cooperation. It appeared that such specific information on cases was scattered among the many practitioners involved in international cooperation and that even the central authorities seldom had centralized data available on that matter.

29. The secretariat did, however, receive detailed information from Brazil on nine cases, selected from many others, where the Organized Crime Convention had been successfully used as the legal basis for requesting mutual legal assistance and had led to favourable consideration by the Brazilian superior courts of foreign requests for extradition and mutual legal assistance. For example, one of the nine cases concerned a major money-laundering investigation, whereby proceeds of drug trafficking had been transferred to multiple foreign jurisdictions. Investigations required sending mutual legal assistance requests, for the hearing of witnesses, production of bank records and freezing of bank accounts, to 23 countries. Thirteen of those countries took the Organized Crime Convention as the legal basis. None of the 13 requests has been denied and, while some are still pending, five have been fully executed, leading to the collection of essential evidence and the freezing of several million dollars in foreign banks. Brazil reported that using the mechanisms of the Organized Crime Convention had presented the additional advantage of

¹³ Armenia, Azerbaijan, Belarus, Belize, Bolivia, Burkina Faso, Cuba, Estonia, Latvia, Lithuania, Malawi, Malta, Mauritius, Mexico, Moldova, Monaco, Netherlands, Panama, Paraguay, Romania, Russian Federation, Slovenia, the former Yugoslav Republic of Macedonia, Ukraine, Uzbekistan and Venezuela (Bolivarian Republic of).

enabling Brazil to establish direct contacts with the relevant central authorities instead of having to resort, as in most requests not based on the Organized Crime Convention, to lengthy diplomatic channels.

30. From the United States of America, the secretariat received a report that 13 extradition requests and five mutual legal assistance requests had been made based on the Organized Crime Convention. Such cases, ranging from large-scale fraud to illegal arms dealing, involved 10 States parties to the Organized Crime Convention, from Central and South America and Eastern and Western Europe. The extradition or assistance was granted in many cases and no case was refused on a ground related to the scope of the Organized Crime Convention or any shortcoming linked to the use of the Organized Crime Convention as the legal basis. The secretariat was also informed that Canada was using the Convention as the legal basis for international judicial cooperation when specific offences, in particular offences under the Protocols, were not included in the scope of application of existing bilateral treaties. The secretariat found, through its own research, decisions of the Supreme Court of Venezuela (Bolivarian Republic of), in which the Convention had been considered as a valid legal basis for extradition and decisions in relation to requests from Lithuania (the request for extradition, related to the offence of organizing and directing a criminal group, had, however, been refused, on grounds not related to the Convention) and Austria (the extradition had been granted).

31. The Conference of the Parties may wish to reiterate its encouragement to States parties to provide the secretariat with data concerning their reliance on provisions of the Organized Crime Convention to effect international legal cooperation. It may further encourage States parties to collect data on requests for international cooperation – including the volume of incoming and outgoing requests, countries from which requests are received or to which requests are made, the outcome of requests, the types of offences, the time required for completion, grounds of refusal and the legal basis used for the request, including use of the Organized Crime Convention as the legal basis – and establish databases to maintain such information, so that States parties may monitor the efficiency of their international cooperation mechanisms and identify and address shortcomings.

III. Strengthening central and other authorities competent for international cooperation

A. Activities to strengthen capacity in international cooperation

32. Promotion of the provisions of the Organized Crime Convention on international cooperation and strengthening of authorities competent in this area have been carried out within the framework of numerous seminars, training and other technical assistance activities undertaken by UNODC.

33. Activities included the holding, in November 2007, of a meeting for central authorities of the Southern Cone, attended by 24 practitioners from Argentina, Bolivia, Chile, Colombia, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of), in cooperation with the Secretary of Justice of Brazil; the holding in Kenya, also in November 2007, of a national workshop for a multi-disciplinary task

force established to examine international cooperation needs, processes, legislation and treaties, in cooperation with the United States; the holding in Malaysia, in December 2007, of an interregional workshop on combating organized crime, for countries of the region, as well as of Europe and Australia; the holding, in February 2008, within the framework of the Vienna Forum to Fight Human Trafficking, of a round table discussion, entitled “Identifying and overcoming obstacles to international cooperation”, on international judicial and law enforcement cooperation; the holding in Kyrgyzstan, in April 2008, of a regional workshop on enhancing law enforcement and judicial cooperation along Central Asian drug routes, in partnership with the Organization for Security and Cooperation in Europe (OSCE) and with the participation of China, France, Kazakhstan, Mongolia, the Russian Federation, the United States and Uzbekistan; the holding in Uzbekistan, in May 2008, of an interregional workshop on promoting law enforcement and judicial cooperation among source, transit and destination countries to combat human trafficking and migrant smuggling to and from Central Asia, in partnership with OSCE and with the participation of Israel, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Thailand, Turkey, Turkmenistan, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland and Uzbekistan; the holding in Panama, in June 2008, of a ministerial conference, with the participation of Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and Peru, which considered practical aspects of international cooperation and recommended in its final declaration the use of the Organized Crime Convention as a legal basis for extradition and mutual legal assistance and requested UNODC to continue providing training for central authorities; the holding in Kazakhstan, in July 2008, of an interregional workshop on seizing, confiscating and sharing or returning proceeds or instrumentalities of crime transferred to foreign jurisdictions, in partnership with OSCE and with the participation of Afghanistan, Ireland, Kazakhstan, Kyrgyzstan, the Netherlands, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, the United Kingdom and Uzbekistan.

B. Regional workshops for central authorities

Preparation, objectives, content and location of regional workshops

34. In decision 3/2, the Conference of the Parties requested the secretariat to organize workshops for central and other competent authorities, liaison magistrates and judges, prosecutors and practitioners in charge of handling cases for which international cooperation is required. In seeking the most efficient way to organize such workshops, the secretariat considered that it would be useful to seek the guidance and assistance of experts in and practitioners of international cooperation in criminal matters who would be willing to provide their expertise in the preparation and holding of the workshops at no cost to UNODC and help the secretariat mobilize the extrabudgetary resources required to organize the workshops.

35. An advisory group of experts was accordingly convened and met in Vienna on 7 and 8 June 2007, 2 October 2007, 14 and 15 February 2008 and 19 and 20 May 2008.¹⁴ The work of the advisory group was brought to the attention of the regional groups by the President of the third session of the Conference of the Parties. It was also presented to the Open-ended Interim Working Group of Government Experts on Technical Assistance, which met in Vienna from 6 to 17 October 2007. The Conference may wish to consider how to ensure that the useful advisory and support functions provided by the Group continue, while securing the inclusion in the Group of more experts and practitioners from countries beneficiaries of technical assistance in the area of international cooperation in criminal matters.

36. With the assistance of the advisory group of experts and financial support from France, Canada, the United States and OSCE, UNODC was able to organize, pursuant to decision 3/2, five regional workshops on strengthening international legal cooperation to combat transnational organized crime and is preparing to hold two further workshops, in South-Eastern Europe in November 2008 and in the Caribbean region in December 2008.

37. The objectives of the workshops were, as defined by decision 3/2, to facilitate exchanges and closer contacts among counterparts 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 (when that Office did not function as central authority); and the investigation department of the main law enforcement agency handling transnational organized crime investigations.

38. 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. 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. 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.

39. 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;¹⁵ for Central and East Asian countries, in Kuala Lumpur

¹⁴ Experts from the following States participated in the work of the advisory group (formerly known as the “steering committee”): Argentina, Australia, Austria, Brazil, Canada, France, Germany, Italy, Japan, Netherlands, Norway, Poland, Portugal, Russian Federation, Spain, Sweden, Switzerland, United Kingdom and United States. An expert from OSCE also attended.

¹⁵ Sixty practitioners participated from 31 States members of OAS: Argentina, Bahamas, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador,

from 14 to 16 November 2007, in coordination with the Office of the Attorney General of Malaysia;¹⁶ 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;¹⁷ for OSCE member States, in Vienna, from 7 to 9 April 2008, in cooperation with OSCE;¹⁸ and for francophone and Portuguese-speaking African countries, in Dakar, from 10 to 12 June 2008.¹⁹ INTERPOL participated in and provided expertise at most of the workshops.

Conclusions and recommendations of workshops

40. Each regional workshop adopted conclusions or recommendations reflecting its discussions on obstacles to international cooperation and the solutions proposed to overcome them.²⁰ Many of the recommendations reinforced points included by the Conference of the Parties in decision 3/2 and represented an endorsement of the best practices developed by UNODC.²¹ They also reflected the commitment of participants, who were all practitioners of international cooperation, to improve international cooperation mechanisms and their awareness that efforts to strengthen national capacity to provide effective international cooperation had a driving effect on improving the capacity of the domestic criminal justice system in general.

41. In the area of extradition, the need to make progress towards a simplification and streamlining of the requirements and processes of dual criminality, evidentiary requirements, judicial review and appeal process was repeatedly emphasized. The example of the European arrest warrant²² elicited great interest in other regions and

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).

¹⁶ 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.

¹⁷ 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.

¹⁸ 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.

¹⁹ 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.

²⁰ The full text of the conclusions and recommendations of each workshop is available to the Conference in conference room papers, in the original language of drafting.

²¹ See the report of the Informal Expert Working Group on Effective Extradition Casework Practice, held in Vienna from 12 to 16 July 2004 (available at www.unodc.org/pdf/ewg_report_extraditions_2004.pdf) and the report of the Informal Expert Working Group on Mutual Legal Assistance Casework Best Practice, held in Vienna from 3 to 7 December 2001 (available at www.unodc.org/pdf/lap_mlaeg_report_final.pdf).

²² A system by which arrest warrants in relation to a list of serious crimes are mutually recognized

the possibility of applying a similar model among Arab States and in the Caribbean region was discussed. The issue of non-extradition of nationals and measures to enhance the use of alternatives, including application of the “extradite or submit to prosecution” principle and conditional surrender, were also discussed in most workshops, as well as issues related to the protection of human rights, in particular those of refugees, in extradition proceedings.

42. In the area of mutual legal assistance, strategies to expedite cooperation and eliminate impediments to the full execution of requests were discussed. The benefits, in all areas of international cooperation, of liaison magistrates,²³ prosecutors and police officers posted abroad to facilitate communication and bridge misunderstandings between legal systems were recognized and the possibility was envisaged of small jurisdictions with limited resources sharing liaison personnel, on a rotational basis, at the regional level. Consulting and maintaining direct contact between authorities throughout all stages of the process, from the initial stage of preparing a request through its drafting, processing and the various complications that can arise, until completion, was deemed crucial both in extradition and mutual legal assistance cases.

43. The need to strengthen the capacity of central and other competent authorities was strongly stressed. In some cases, authorities did not have at their disposal such basic office equipment as telephones with fax connections or computers with Internet access, which were needed to carry out their functions, such that technical assistance in terms of providing or upgrading telecommunications facilities and in meeting other basic needs was indispensable. Appropriate financial resources to cover administrative and operational costs, translation services, and basic information technology support were necessary for authorities to function efficiently. Adequate staffing of authorities was also essential, including training of the broad range of practitioners involved in international cooperation: judges, prosecutors, law enforcement officers, court personnel and translators. It was recognized that, in some cases, a broader intervention in support of the criminal justice system in its globality was required, as the lack of a functioning criminal justice system renders effective international cooperation illusory.

44. Participants acknowledged the value of the regional workshops in terms of the training received, the opportunities to discuss common problems with counterparts and to strengthen working relationships based on mutual understanding and trust and, in a number of instances, to make progress on specific pending cases. The regional workshops gave rise to requests for follow-up events with a different geographical focus: national training seminars were requested in some cases or cross-regional workshops bringing together States such as origin, transit and destination States along trafficking routes linked by a significant flow of requests, or workshops with a specific substantive focus such as judicial cooperation in relation to specific trafficking activities or the tracing, seizure and confiscation of assets.

among countries of the European Union and which allows surrender of persons between European judicial authorities within short deadlines according to a simplified procedure.

²³ Several of the workshops were attended by criminal justice liaison personnel posted in the region, who shared their experiences.