



Economic and Social Council

Distr.: General
9 January 2007

Original: English

Commission on Narcotic Drugs

Fiftieth session

Vienna, 12-16 March 2007

Item 4 of the provisional agenda*

**Follow-up to the twentieth special session of the
General Assembly**

The world drug problem

Fourth biennial report of the Executive Director

Addendum

Measures to promote judicial cooperation

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* E/CN.7/2007/1.



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I. Introduction

1. In paragraph 16 of the Political Declaration adopted by the General Assembly at its twentieth special session (resolution S-20/2, annex), Member States undertook to promote multilateral, regional, subregional and bilateral cooperation among judicial and law enforcement authorities to deal with criminal organizations involved in drug offences and related criminal activities. To that end, States were encouraged to review and, where appropriate, to strengthen by the year 2003 the implementation of the measures to promote judicial cooperation adopted at the special session. Such measures included extradition, mutual legal assistance, transfer of proceedings, controlled delivery, cooperation in maritime drug law enforcement, targeting illicit traffic by sea, measures to support the judicial process, such as the protection of witnesses and judicial officers, and other forms of cooperation. The implementation of these measures, taken together, should achieve the objectives set by the General Assembly at its twentieth special session in connection with judicial cooperation.

2. The legal framework for judicial cooperation to implement the General Assembly objectives is provided in the international drug control treaties. As at 20 December 2006, the treaties enjoyed almost universal adherence. Since the twentieth special session, in 1998, 35 States have become parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (hereinafter referred to as “the 1988 Convention”),¹ bringing the number of parties to 181 States and 1 regional economic integration organization (the European Community); 20 States have become parties to the Single Convention on Narcotic Drugs of 1961² or to that Convention as amended by the 1972 Protocol,³ bringing the number of parties to 181; and 26 States have become parties to the Convention on Psychotropic Substances of 1971,⁴ bringing the number of States parties to that Convention to 180.

3. The present report contains a summary and analysis of the replies received from Member States to the fourth biennial questionnaire concerning progress made towards meeting the objectives relating to judicial cooperation set by the General Assembly at its twentieth special session (hereinafter referred to as “the General Assembly objectives”). It is the fourth report in the series and covers the period from June 2004 to June 2006. The first report (E/CN.7/2001/16) covered the period from June 1998 to June 2000 and the second report (E/CN.7/2003/2/Add.3) covered the period from June 2000 to June 2002. The third report (E/CN.7/2005/2/Add.3)

¹ United Nations, Treaty Series, vol. 1582, No. 27627.

² Ibid., vol. 520, No. 7515.

³ Ibid., vol. 976, No. 14152.

⁴ Ibid., vol. 1019, No. 14956.

covered the period from June 2002 to June 2004. A total of 90 States replied to the questions in the fourth biennial questionnaire on judicial cooperation.⁵

4. Unless otherwise specified, percentages presented here should be read as percentages of States responding to the fourth biennial questionnaire. Comparisons have been carried out between percentages of States responding in each reporting period. The report assesses implementation by Member States of measures to achieve the General Assembly objectives in each of the areas of judicial cooperation (extradition, mutual legal assistance, transfer of proceedings, law enforcement cooperation, controlled delivery and protection of witnesses), on the basis of the replies to the questionnaire received by the Secretariat. Specific questions were selected for the purpose of the analysis⁶ and, where all replies were in the affirmative,⁷ the implementation rate of the General Assembly objectives was deemed to be 100 per cent.

5. The data are presented in four geographic groups: Africa and the Middle East, America and the Caribbean, Asia and Oceania, and Europe.⁸ These four groups have been formed from nine subregions: Central, South and South-West Asia; East and South-East Asia; Central and Western Europe; Latin America and the Caribbean; North Africa and the Middle East; North America; Oceania; Sub-Saharan Africa; and East and South-East Europe. For each subregion, an average implementation rate is presented.

II. Extradition

6. Extradition is one of the key forms of judicial cooperation, by which States may ensure prosecution for serious offences, including drug-related offences, of fugitives wanted in their jurisdiction. Article 6 of the 1988 Convention provides that States may consider the Convention as the legal basis for extradition for the offences established by it. It also provides that the offences under the Convention shall be considered by States parties as extraditable offences. Under article 6,

⁵ Albania, Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Bolivia, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Ethiopia, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Maldives, Malta, Mauritius, Mexico, Monaco, Morocco, Myanmar, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Syria, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan and Zimbabwe.

⁶ Extradition: questions 21, 22, 23, 26 and 27; mutual legal assistance: questions 29, 30, 33 and 34; transfer of proceedings: questions 36, 40 and 41; law enforcement cooperation: questions 43(a)-(d) and 45; controlled delivery: questions 46 and 47; illicit drug trafficking by sea: questions 49 and 52; protection: questions 54, 55 and 56.

⁷ With the exception of question 22: "Do the laws in your country preclude or seriously limit the extradition of nationals?"

⁸ For the sake of convenience, the report uses a short version of these regions, that is, Africa, the Americas, Asia and Europe.

paragraph 7, of the Convention, parties agree to endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which article 6 applies. Further, the Convention provides that States parties shall seek to conclude bilateral and multilateral agreements on extradition.

7. At its twentieth special session, in its resolution S-20/4 C of 10 June 1998, the General Assembly requested States to take steps to review and if necessary simplify their extradition laws and procedures, including by reviewing legislation; to facilitate cooperation with other States concerning extradition, for example, by informing other States of the relevant competent authorities, by using modern communication technologies and providing other relevant information. Both the 1988 Convention and the measures adopted at the twentieth special session called upon States to remove impediments to extradition, in particular the non-extradition of nationals. States were requested to consider extraditing their nationals for serious drug offences on the agreement that offenders would be surrendered for prosecution but that they could be returned to serve any sentence and to reconsider the other traditional exceptions to extradition.

A. National competent authorities

8. The United Nations Office on Drugs and Crime (UNODC) regularly collects from and distributes information to Member States on competent authorities designated to receive, respond to and process extradition requests. As at 20 December 2006, the contact information for 147 competent authorities of Member States or dependent territories had been provided to UNODC; that information was published in document ST/NAR.3/2006/4, together with information on specific procedures to be followed in urgent cases. In December 2006, UNODC made that information available to Member States on a secure website (<http://www.unodc.org/compauth/index.html>). In April 2006, an informal expert working group of extradition casework practitioners organized by UNODC produced a comprehensive first draft of the operational legal content for a new UNODC software tool, which is an aid to criminal justice practitioners wishing to write effective extradition requests. The Extradition Request Writer Tool has been developed following the model established by the UNODC Mutual Legal Assistance Request Writer Tool; it is expected to be made available in 2007.

B. Legislation permitting extradition

9. Of the 90 States responding in the fourth reporting period, most had legislation permitting extradition (84.4 per cent). This is similar to the rate reported in the third reporting period. The lowest rate was in Asia, where 70 per cent of the responding States indicated that they had legislation permitting extradition.

C. Extradition of nationals

10. According to the replies received, the laws of 44.4 per cent of the States that responded to the fourth survey still precluded or seriously limited the extradition of nationals. Most States in Europe reported such restrictions (71 per cent), as well as

36 per cent of responding States in Africa, 35 per cent in Asia and 18 per cent in the Americas. Limitations included, for example, a requirement of reciprocity, residency of the fugitive in the requesting State and assurance of the return of the fugitive to the country of nationality to serve the sentence there.

11. When comparing the figures above with the previous reporting periods, there did not seem to have been much progress. During the first reporting period, 48 per cent of the States responding had laws limiting the extradition of nationals; during the second (when more States replied), 52 per cent had such laws; during the third, 47 per cent of the States responding had such laws. Some States reported that they did not envisage lifting the restrictions: Croatia, for example, reported that the only exception foreseen was in cases of extradition to the International Criminal Court.

D. Review of extradition procedures

12. In its resolution S-20/4 C of 10 June 1998, the General Assembly requested States to take steps to review and if necessary simplify their extradition laws and procedures. During the reporting period, 28 per cent of the States responding had reviewed, simplified or otherwise strengthened their procedures in connection with extradition in drug-related cases, bringing to 78 the total number of States and territories that had revised or reviewed their procedures since the twentieth special session, that is, less than half of States parties to the drug conventions. International standards have continued to evolve since the special session (the adoption of the European arrest warrant being one prominent example); therefore, States needed to continue to review and update their procedures. However, the figures reported in the fourth reporting period were lower than the ones reported in the previous reporting periods (32, 29 and 31 per cent during the first, second and third reporting periods respectively). In Asia, only 11 per cent of States had carried out such a review, while that figure rose to 26 per cent of States in Europe and 47 per cent in the Americas. Most States members of the European Union had revised their procedures to implement the European arrest warrant. Other States have also revised their procedures.

E. Bilateral and multilateral agreements

13. Most States had entered into both bilateral and multilateral agreements on extradition (76 and 58 per cent respectively). Asia and Africa were the regions in which the fewest States replied positively: 65 per cent of Asian States and 63 per cent of African States having entered into bilateral agreements, and 30 per cent of Asian States and 15 per cent of African States having entered into multilateral agreements.

14. Some States reported difficulties during the negotiation, adoption or ratification of the treaties similar to those reported in previous reporting periods (that is, differences between legal systems, the definition of political offences, the definition of extraditable offences, delays in negotiations, especially for multilateral treaties, and delays in formal approval or ratification by legislative bodies).

F. Model forms

15. Over a third (36 per cent) of the responding States had developed model forms, guides or manuals on how to make requests for extradition. This figure is close to the figures reported in the previous reporting periods (32, 31 and 34 per cent during the first, second and third reporting periods respectively).

G. Obstacles to extradition

16. The number of refusals of extradition was lower than the difference between the number of requests sent and those executed. It implies that although some requests were not executed, they were not officially refused, perhaps due to delays and procedural difficulties rather than substantive legal impediments. The reasons for official refusal stated in the replies included non-extradition of nationals, lack of dual criminality, statute of limitations periods that had elapsed, political offences and procedural or formal deficiencies in the requests. Other difficulties encountered in the extradition process included lengthy procedures, which could lead to the release of prisoners as a result of the limitation of pre-trial detention, differences between national legal and judicial systems (in particular, the question of the imposition of the death penalty) and translation problems.

H. Conclusions

17. Legal and practical difficulties remain, even though most States have laws and have entered into bilateral and multilateral treaties providing for the extradition of drug offenders and many have revised their legislation since the special session. As regards the non-extradition of nationals and the simplification of the traditional extradition process, although progress has been made, some countries maintain the position that they will not consider extradition of their nationals. It appears that most of the progress in adopting bilateral and multilateral agreements has been made within regional frameworks rather than on a global basis. While the low number of refusals reported is encouraging, many difficulties remain with regard to differences between legal systems, delays and procedural and language problems.

18. The levels of implementation of measures to achieve the General Assembly objectives in the area of extradition vary among subregions and indicate different trends. In Europe and the Americas, there is a general trend of increase in the levels of implementation, whereas in Africa levels have remained largely unchanged throughout the four reporting periods. In Asia, there seems to be a decrease in the levels of implementation; however, this may be due to different countries replying in each reporting period (see figures I-IV).⁹

⁹ It should be noted that, in the fourth reporting period, Oceania included only one country (Australia).

Figure I

Extradition: Asia and Oceania

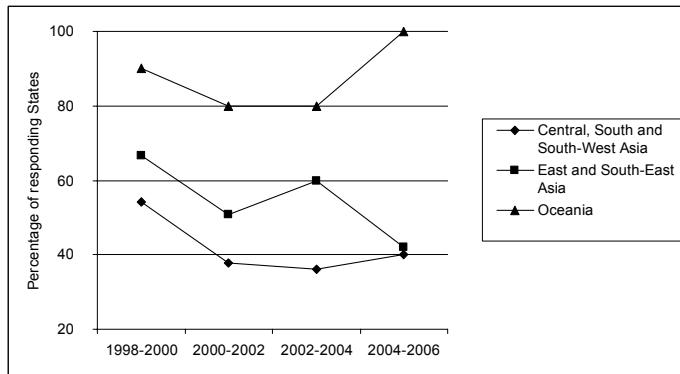


Figure II

Extradition: Europe

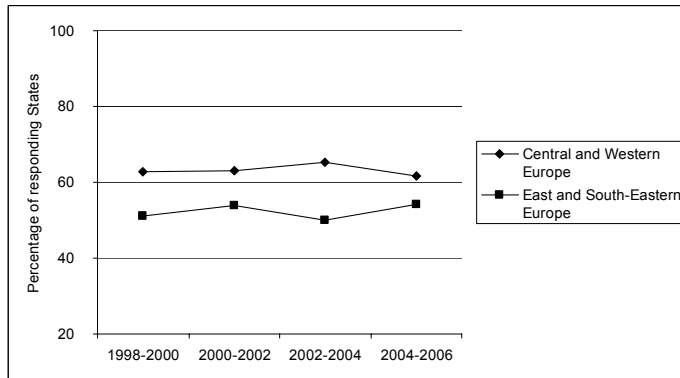


Figure III

Extradition: the Americas

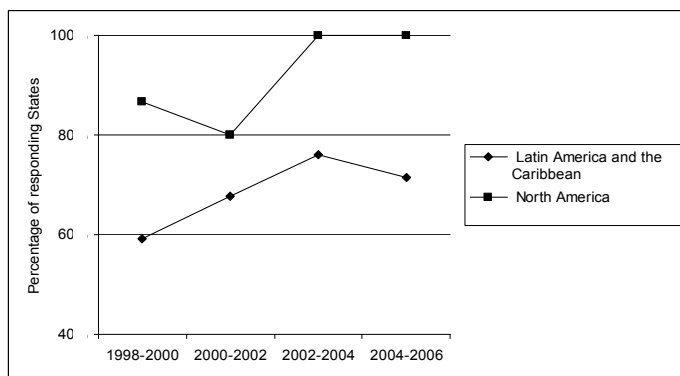
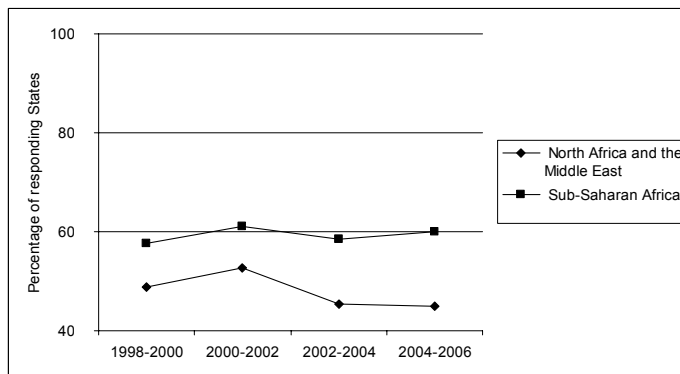


Figure IV

Extradition: Africa and the Middle East**III. Mutual legal assistance**

19. At its twentieth special session, the General Assembly recommended that States ensure that their domestic legislation enabled them to implement article 7 (mutual legal assistance) of the 1988 Convention, and take specific steps to facilitate mutual legal assistance, such as the sharing of information on competent authorities, and the review of domestic laws and procedures in connection with mutual legal assistance.

A. Competent national authorities

20. Since the entry into force of the 1988 Convention, UNODC has been collecting and publishing a list of competent authorities under article 7 of the 1988 Convention. As at 20 December 2006, States or dependent territories had provided updated information on 187 competent authorities for mutual legal assistance. That information is currently available online, through a secure website (<http://www.unodc.org/compauth/index.html>). In 2006, UNODC globally deployed the Mutual Legal Assistance Request Writer Tool, which assists criminal justice practitioners in drafting correct and effective mutual legal assistance requests, thereby significantly enhancing international cooperation between States. The Mutual Legal Assistance Tool can be downloaded for use from a secure UNODC website (<http://www.unodc.org/mla>).

B. Legislation permitting mutual legal assistance

21. Most of the responding States reported that they had legislation permitting mutual legal assistance (81 per cent overall: 77 in Africa, 100 in the Americas, 70 in Asia and 80 in Europe). These figures are similar to the ones reported in the previous reporting period (82 per cent overall).

C. Review of procedures

22. Similarly to previous reporting periods, more than a third of all States (37 per cent) had reviewed, simplified or otherwise strengthened procedures for mutual legal assistance: a total of 72 States had revised or reviewed their procedures at least once since the twentieth special session. However, regional disparities were evident: while only 22 per cent of States in Europe had reviewed their procedures, 27 per cent of States in Africa, 35 per cent of States in Asia and 76 per cent of States in the Americas had done so. Romania, for example, had enacted in 2004 a law on international criminal matters, which provided for a wide range of international cooperation measures, including mutual legal assistance. Australia had conducted a comprehensive review of its mutual legal assistance arrangements and issued a discussion paper on the topic, which is available online.

D. Model forms

23. Globally, the same proportion of States had developed model forms, guides or manuals on how to make requests for mutual legal assistance as for extradition (37 per cent). However, regionally there were disparities: in the Americas and Asia, more States had developed model forms, guides or manuals for mutual legal assistance than for extradition (41 versus 35 per cent in the Americas and 50 versus 35 per cent in Asia), while in Europe more States had developed model forms, guides or manuals for extradition than for mutual legal assistance (52 versus 45 per cent). Only in Africa were the figures identical at 9 per cent each.

E. Bilateral and multilateral agreements

24. When comparing the replies concerning bilateral and multilateral treaties, the figures for mutual legal assistance were similar to those for extradition. Globally, 73 per cent of all States had entered into bilateral agreements and 63 per cent had entered into multilateral agreements in relation to mutual legal assistance.

25. Regionally, Asia was the region in which the lowest number of States had entered into multilateral and bilateral agreements on mutual legal assistance (32 and 65 per cent respectively), followed by Africa (45 and 63 per cent), Europe (81 and 90 per cent) and the Americas (88 and 82 per cent). In comparison with the figures for extradition, the figures for multilateral agreements on mutual legal assistance appear to be higher.

F. Obstacles to mutual legal assistance

26. States reported encountering similar obstacles in the execution of mutual legal assistance requests to those encountered in cases of extradition, in particular difficulties relating to legal differences, translation and delays.

G. Conclusions

27. While most States had adopted legislation and entered into bilateral and multilateral treaties with respect to providing mutual legal assistance in drug trafficking cases and many had revised their procedures since the special session, only a limited number of States had actively implemented those provisions. The overall situation remained similar to that reported in the third reporting period.

28. The levels of implementation of measures to achieve the General Assembly objectives in the area of mutual legal assistance varied among different subregions and indicated different trends. In the Americas, there was a general trend of increase in the level of implementation, whereas in Europe there seemed to be no significant change throughout the reporting periods. In Asia, there seemed to be an increase in the third reporting period, while in sub-Saharan Africa, an increase was identified in the second. In North Africa and the Middle East, there was a general trend of increase in the levels of implementation (see figures V-VIII).

Figure V

Mutual legal assistance: Asia and Oceania

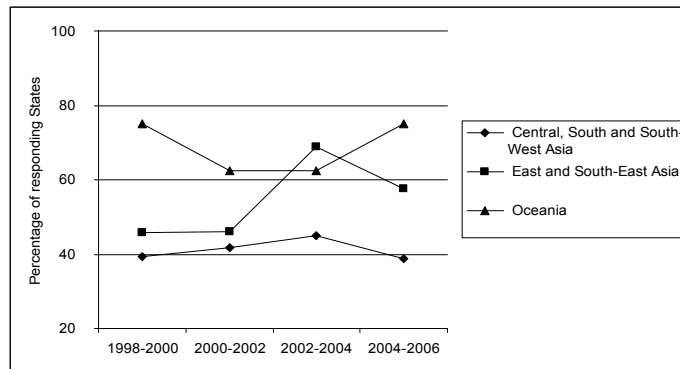


Figure VI

Mutual legal assistance: Europe

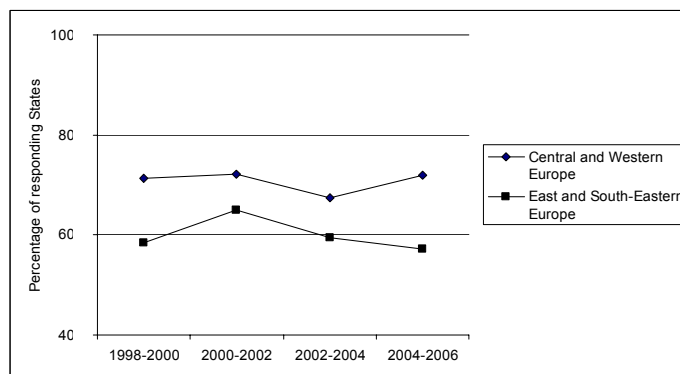


Figure VII

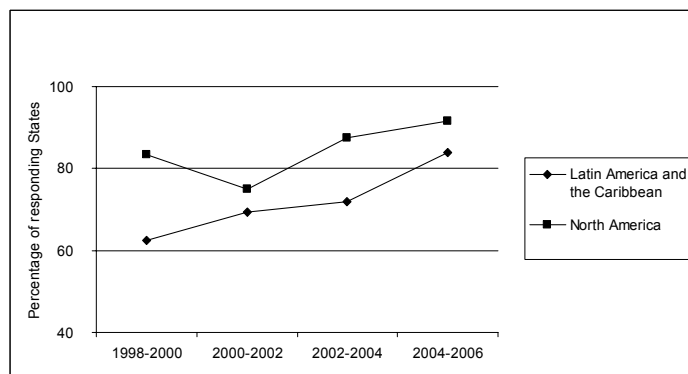
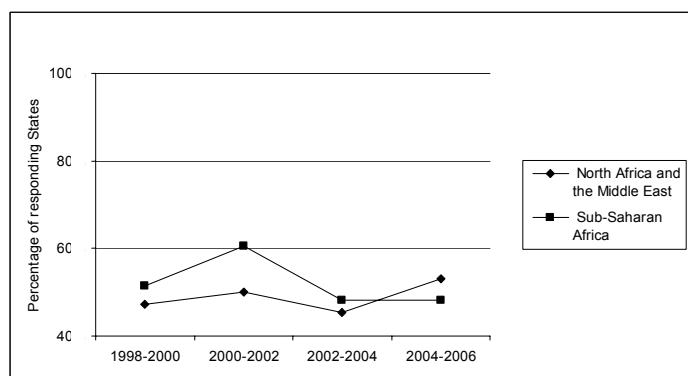
Mutual legal assistance: the Americas

Figure VIII

Mutual legal assistance: Africa and the Middle East**IV. Transfer of proceedings**

29. The recommendations of the General Assembly at its twentieth special session and the 1988 Convention encourage States to consider enacting legislation to transfer or receive proceedings in criminal matters, and take other steps to facilitate the transfer of proceedings.

A. Legislation permitting transfer of proceedings

30. Half of the States responding reported that they had enacted legislation permitting or facilitating transfer of proceedings; this was more than in the previous reporting period (46 per cent). In Europe, 71 per cent of the responding States had such legislation, while in the Americas the figure was 47 per cent, in Africa 41 per cent and in Asia 30 per cent. The figures were similar to those reported during the previous reporting periods.

B. Review of procedures

31. Only 13 per cent of the States responding had reviewed, simplified or otherwise strengthened procedures in connection with transfer of proceedings (31 per cent in the Americas, 10 in Africa, 16 in Asia and 3 in Europe), yet this figure is nevertheless higher than that of the previous reporting period (10 per cent). Most of the rise was among States in the Americas (from 18 to 31 per cent).

C. Bilateral and multilateral agreements

32. Globally, 22 per cent of the States responding had entered into bilateral agreements on transfer of proceedings and 26 per cent had entered into multilateral agreements (a lower percentage than in the previous reporting period). Europe was the region in which the most States had entered into bilateral and multilateral agreements (35 and 48 per cent respectively).

33. As in previous reporting periods, among all areas of judicial cooperation, transfer of proceedings was still the one where the fewest States had enacted legislation, entered into treaties or revised their legislation. Only a few States in Europe and the Americas used such a tool with respect to drug offences.

34. The levels of implementation of measures to achieve the General Assembly objectives in the area of transfer of proceedings varied among different subregions and indicated different trends. In the Americas and Europe, there was a general trend of increase in the levels of implementation, whereas in North America there was a decrease in the fourth reporting period. In Asia, similarly to the progress made with regard to mutual legal assistance, there seemed to be an increase in the third reporting period, while in Africa, a decrease was identified in the second reporting period (see figures IX-XII).

Figure IX

Transfer of proceedings: Asia and Oceania

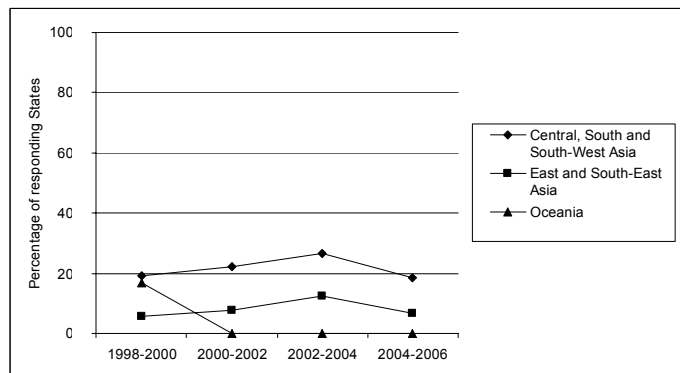


Figure X

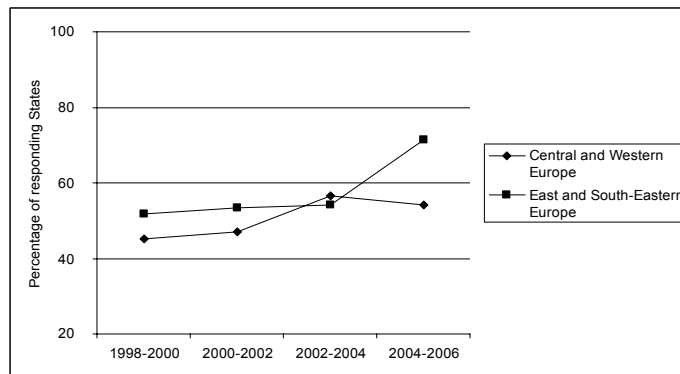
Transfer of proceedings: Europe

Figure XI

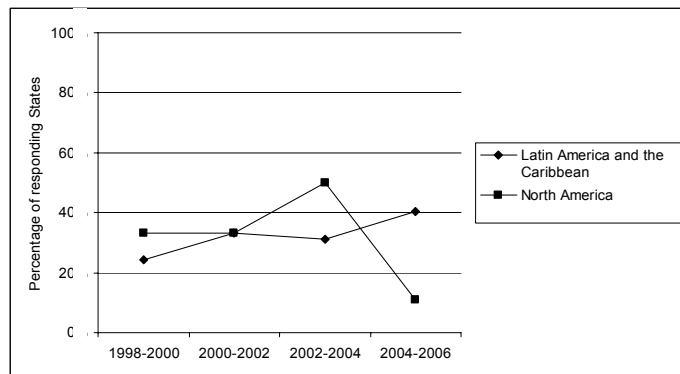
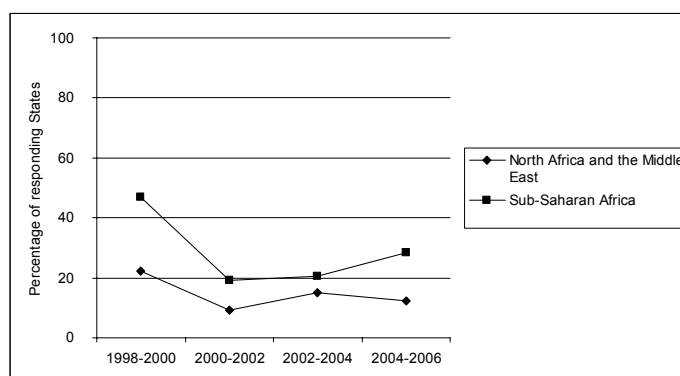
Transfer of proceedings: the Americas

Figure XII

Transfer of proceedings: Africa and the Middle East

V. Law enforcement cooperation and exchange of information

35. With respect to law enforcement and exchange of information, the General Assembly at its twentieth special session encouraged States to consider developing or expanding programmes for the exchange of law enforcement personnel, and to take other steps, where appropriate, to enhance cooperation between law enforcement agencies.

A. Exchange programmes

36. A total of 78 per cent of States responding to the fourth biennial questionnaire had instituted exchange programmes with other States, in many cases on the basis of bilateral and multilateral agreements and arrangements made within regions or subregions; this figure was similar to those of the second and third reporting periods. Regionally, Africa had the lowest rate of States instituting such programmes (64 per cent). Many States had agreed to the exchange of police and drug liaison officers with other States. Pakistan, for example, reported that its anti-narcotics force had provided training to officials from countries such as Afghanistan, Bahrain, Iran (Islamic Republic of), Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

B. Information-sharing

37. Many of the States responding were sharing with other States information on criminal investigation techniques and criminal intelligence about the activities of individuals or groups (78 per cent). In the Americas and Europe, 81 per cent of States responding shared information in that area. In Asia and Africa, the percentages were 90 and 62 respectively. Many States again provided examples of such cooperation: it was reported that significant drug seizures were reported to international bodies such as Interpol, as well as to other countries, and that some aspects of information-sharing were regulated by specific bilateral agreements.

C. Establishing specialized units

38. Many of the States responding had established specialized units for investigating drug trafficking cases (74 per cent). In Europe, the figure was 74 per cent, while in the Americas it was 81 per cent. In Asia and Africa, similar numbers of States had established such units: 70 and 68 per cent respectively. Such units were established in both the police and the office of the prosecutor. In Romania, for example, a special directorate for the investigation of organized crime and terrorism was established in 2005 in the office of the prosecutor.

D. Technical cooperation

39. Most States had also enhanced technical cooperation, training and human resource development for law enforcement personnel (83 per cent). In all regions, at least three quarters of States had enhanced cooperation and training in that area

(80 per cent in Asia, 87 in the Americas, 77 in Africa and 87 in Europe). Many countries had provided information on their training programmes. In China, for example, the narcotics control commission had made use of UNODC training programmes and carried out drug control training for the police.

E. Other measures

40. Three quarters of all States responding had taken other measures to strengthen cooperation with the law enforcement agencies of other States, such as organizing tours for foreign officials stationed in their country and enacting legislation to allow further cooperation (75 per cent).

41. In conclusion, law enforcement cooperation appears to have developed in all regions, although the figures reported remained similar to those of the previous reporting period. Some countries appeared to be more involved in such programmes on a regular basis than others.

42. The levels of implementation of measures to achieve the General Assembly objectives in the area of law enforcement cooperation seemed to be generally in decline. In Europe, a decline was identified in the third reporting period, whereas there was an increase in the fourth reporting period. In the Americas, there was an increase in the second reporting period and a decline in the following periods (see figures XIII-XVI).

Figure XIII

Law enforcement cooperation: Asia and Oceania

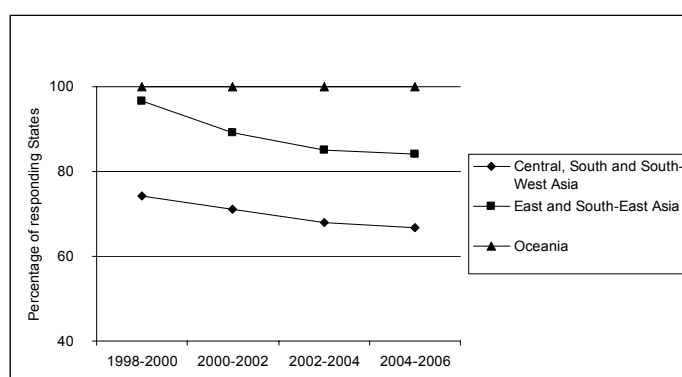


Figure XIV

Law enforcement cooperation: Europe

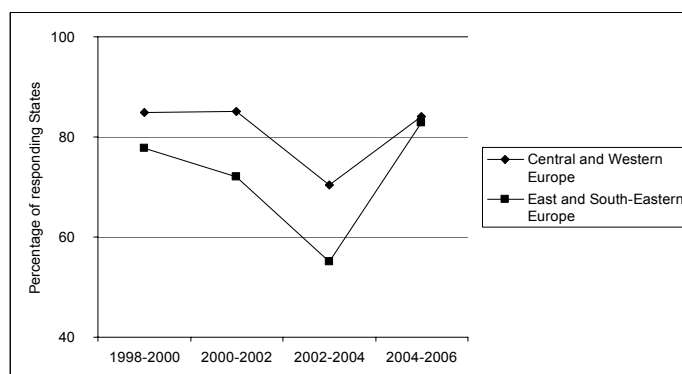


Figure XV

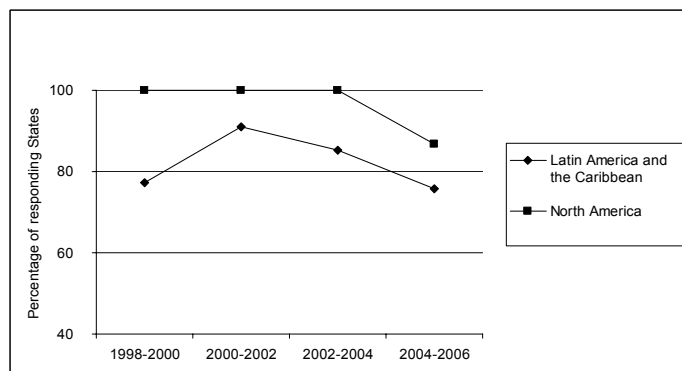
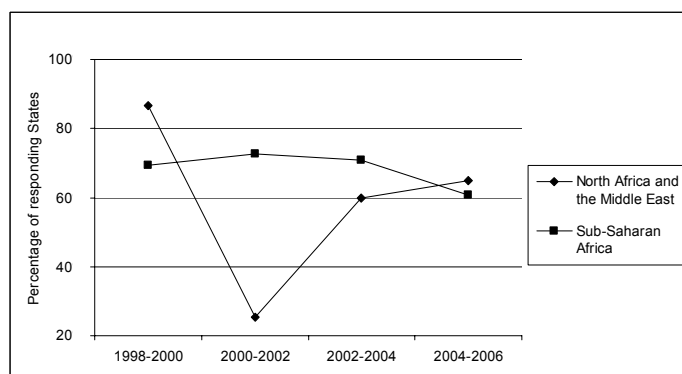
Law enforcement cooperation: the Americas

Figure XVI

Law enforcement cooperation: Africa and the Middle East**VI. Controlled delivery**

43. In the area of controlled delivery, which is provided for by article 11 of the 1988 Convention, the General Assembly at its special session recommended that States ensure that their legislation, procedures and practices allowed for the use of the technique at both the domestic and the international levels and consider entering into agreements with other States to facilitate the use of controlled deliveries.

A. Legislation permitting controlled delivery

44. Most of the States responding had provided for the use of controlled delivery in their legislation (84 per cent, which was the same figure as in the third reporting period). Many of them had made such provision in their legislation: in Africa 68 per cent (compared to 63 in the previous reporting period), in the Americas 87 per cent (compared to 68 in the previous reporting period), in Asia 80 per cent (compared to

80 in the previous reporting period) and in Europe 97 per cent (compared to 93 in the previous reporting period).

B. Review of procedures

45. Less than half of the States responding reported that they had reviewed, simplified or otherwise strengthened their procedures with regard to controlled delivery (42 per cent). Since the first reporting period, 69 States have reported revising their laws and procedures. The highest rate was in the Americas (62 per cent) and the lowest in Africa (27 per cent).

C. Obstacles to controlled delivery

46. Some States reported practical difficulties when carrying out controlled deliveries, including differences between legal provisions in different States (in particular, difficulties in cooperating with States still imposing the death penalty), difficulty in identifying the links between local criminal groups and international groups, differences in legal requirements and different authorities responsible for the execution of controlled delivery.

47. In conclusion, although controlled delivery was one of the measures that was widely used by States in all regions, the percentage of States having legislation permitting its use remained largely the same as in the previous reporting period, except in the Americas, where figures rose substantially. It was clearly an area in which many States still had difficulties in performing effectively. Further attention is required to ensure that the technique is used efficiently.

48. The levels of implementation of measures to achieve the General Assembly objectives in the area of controlled delivery seemed to be generally increasing. This is true for most subregions, although in some there was a major increase in the second reporting period, followed by a small decrease. In North Africa and the Middle East there was a decrease in the second reporting period (see figures XVII-XX).

Figure XVII

Controlled delivery: Asia and Oceania

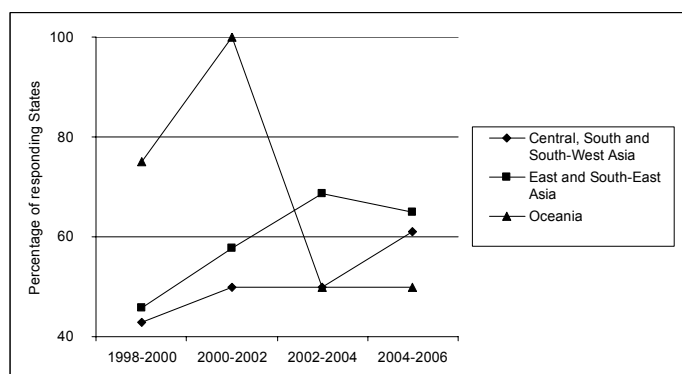


Figure XVIII

Controlled delivery: Europe

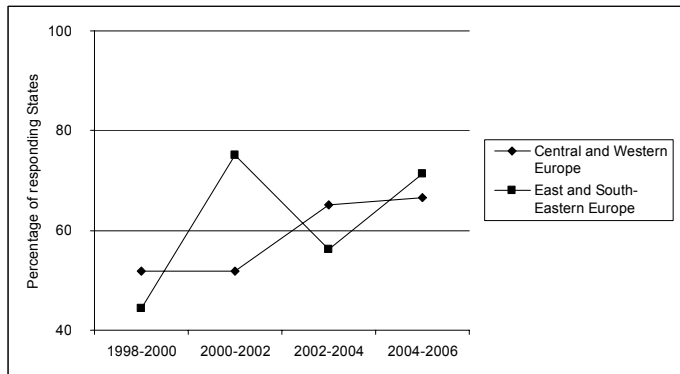


Figure XIX

Controlled delivery: the Americas

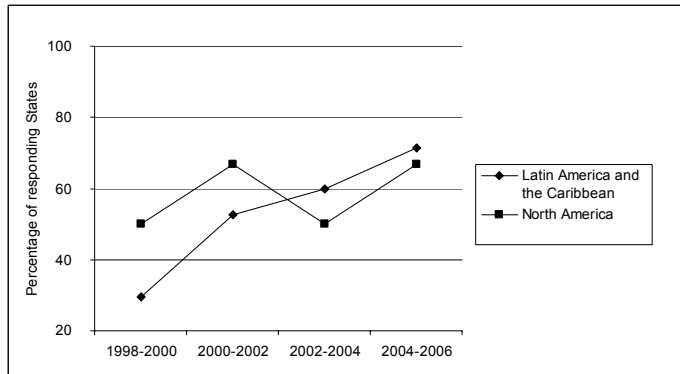
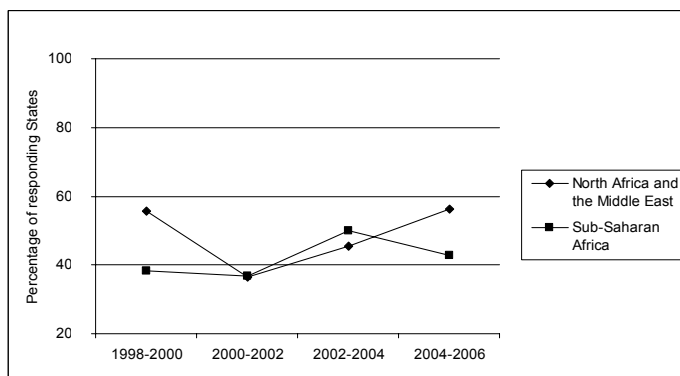


Figure XX

Controlled delivery: Africa and the Middle East



VII. Illicit trafficking in drugs by sea

49. In the area of illicit trafficking in drugs by sea, which is regulated under article 17 of the 1988 Convention, the General Assembly recommended at its special session that States review national legislation to ensure that the legal requirements of the 1988 Convention, such as the identification of competent national authorities, the maintenance of ship registries and the establishment of adequate law enforcement powers, were met. It also recommended that Member States facilitate cooperation between competent authorities and promote regional cooperation, as well as training of law enforcement personnel in maritime drug law enforcement.

A. Competent national authorities

50. Since the entry into force of the 1988 Convention, UNODC has been collecting and publishing a list of competent authorities under articles 7 and 17 of the 1988 Convention. Since 2001, that list has been issued quarterly and disseminated to all competent authorities, both electronically and in hard copy. As at 20 December 2006, States and independent territories had provided updated information on 138 competent authorities for receiving and sending requests relating to illicit trafficking by sea. In December 2006, UNODC made that information available on a secure website (<http://www.unodc.org/compauth/index.html>).

B. Legislation permitting cooperation

51. Among the States responding to the part of the questionnaire on drug trafficking by sea, 66 per cent or 59 states (as compared to 50 per cent or 44 States in the previous reporting period) had legislation permitting cooperation with other States in connection with countering illicit drug trafficking by sea.

C. Bilateral and multilateral agreements

52. Over a third of States responding had entered into bilateral or multilateral agreements on illicit trafficking by sea (37 per cent compared to 31 in the previous reporting period). The major multilateral agreements cited were the Council of Europe Agreement on Illicit Traffic by Sea, implementing article 17 of the 1988 Convention, and a number of international customs cooperation treaties. Poland, for example, reported on cooperation within the framework of the Baltic Sea region.

53. Twenty-one States (16 per cent) that provided information on their competent national authorities reported that they had received, sent or executed requests for assistance in relation to illicit trafficking by sea: Canada, Costa Rica, Cyprus, Ecuador, El Salvador, Finland, France, the Gambia, Israel, Japan, Lithuania, Mexico, Peru, Portugal, the Russian Federation, South Africa, Togo, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America. The number of requests executed annually in each country ranges from 1 to 130.

54. In conclusion, there was a significant increase in the percentage of countries having legislation permitting cooperation in the area of combating illicit drug trafficking by sea and in those entering into bilateral or multilateral agreements, yet much remained to be done, as only 21 States were using such a tool.

55. The levels of implementation of measures to achieve the General Assembly objectives in the area of illicit traffic by sea varied among different subregions and different reporting periods. In Europe, there seemed to be a general trend of increase in the levels of implementation, while in other regions there were no identifiable trends. This may be due to differences in the participation of countries in the four reporting periods, in particular, landlocked countries (see figures XXI-XXIV).

Figure XXI

Illicit trafficking in drugs by sea: Asia and Oceania

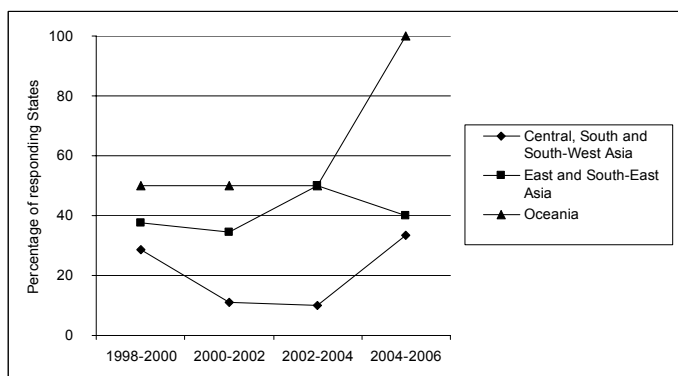


Figure XXII

Illicit trafficking in drugs by sea: Europe

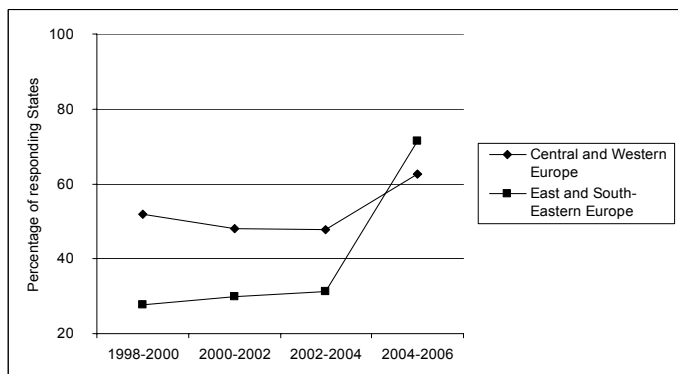


Figure XXIII

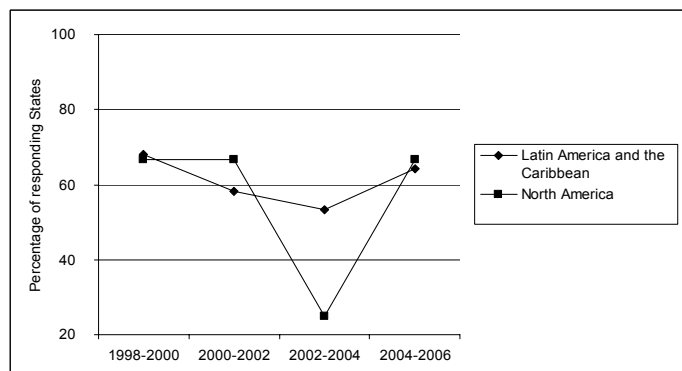
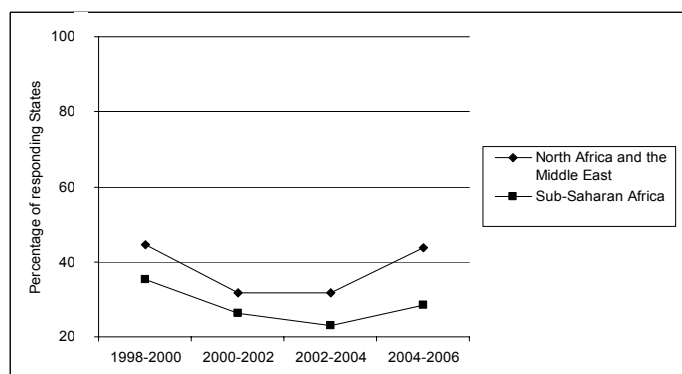
Illicit trafficking in drugs by sea: the Americas

Figure XXIV

Illicit trafficking in drugs by sea: Africa and the Middle East

VIII. Protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses

56. At its twentieth special session, the General Assembly recommended that States consider designing complementary measures to enhance further the implementation of the 1988 Convention in the area of the protection of judges, prosecutors and other members of surveillance and law enforcement agencies, as well as witnesses, whenever the circumstances so warrant, in cases that involve illicit drug trafficking.

A. Legal framework for protection

57. Most States responding reported having in place legislation, rules or procedures for the protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses (69 per cent). This figure is the same as the one reported in the previous reporting period. However, in Africa only 38 per cent of the

responding States reported having such measures in place. Protection includes a variety of measures, such as change of identity. Some countries had extended protection to law enforcement personnel and created new measures of protection. In Sweden, for example, a law enacted in July 2006 applied protection to witnesses and to law enforcement officers and allowed for compensation for damages caused by threats. Some countries noted that they had in place only measures for the protection of witnesses.

B. Review of procedures for the protection of witnesses

58. More States than in the previous period reported having revised their procedures with respect to the protection of witnesses: globally, some 40 per cent of States responding had reviewed, simplified or otherwise strengthened procedures in connection with the protection of witnesses (compared to 37 per cent in the previous reporting period). Regionally, in the Americas 59, in Europe 48, in Asia 35 and in Africa 18 per cent of the States responding had done so. Compared to the previous reporting period, these figures had increased in the Americas and decreased in Africa.

59. In conclusion, while most States reported having legislation, rules or procedures for the protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses, regional disparities remained. Compared to the previous reporting periods, more States had enacted legislation and revised their procedures with respect to the protection of witnesses.

60. The levels of implementation of measures to achieve the General Assembly objectives in the area of protection of witnesses varied among different subregions and different reporting periods. This could be as a result of the selection of questions relating exclusively to the review of measures; different countries may have reviewed different measures during different reporting periods. In addition, question 53, relating to existing measures, was not included in the first questionnaire and was therefore not reflected in the graphs (see figures XXV-XXVIII).

Figure XXV

Protection: Asia and Oceania

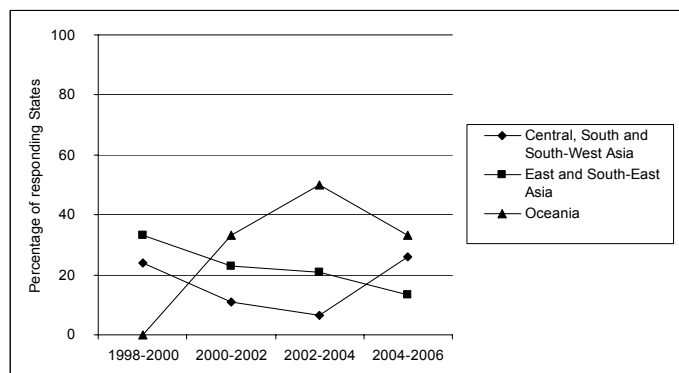


Figure XXVI

Protection: Europe

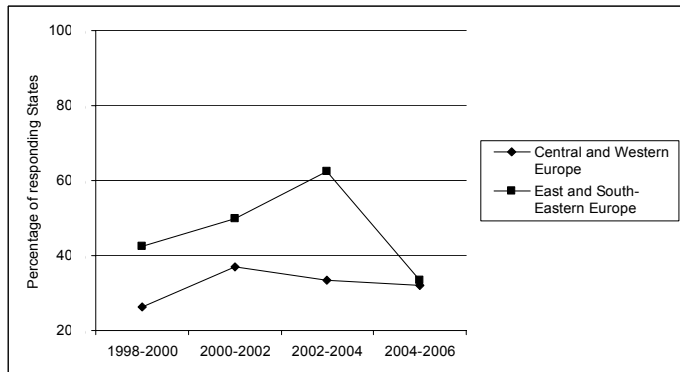


Figure XXVII

Protection: the Americas

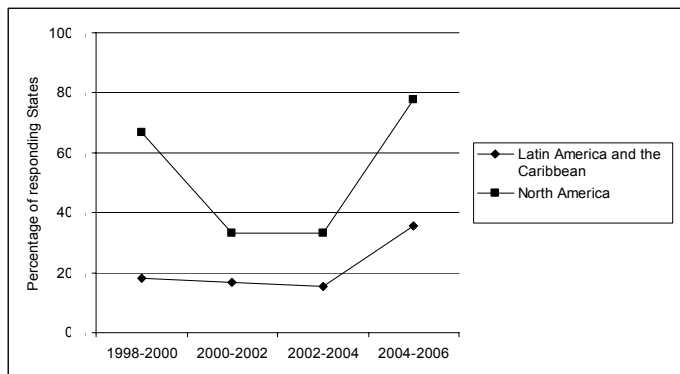
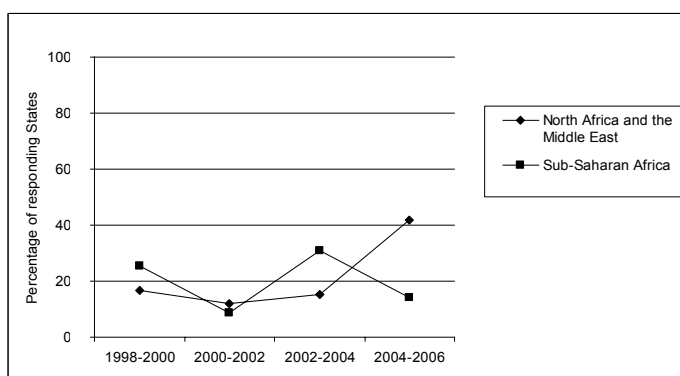


Figure XXVIII

Protection: Africa and the Middle East



IX. Conclusions and recommendations

A. Conclusions

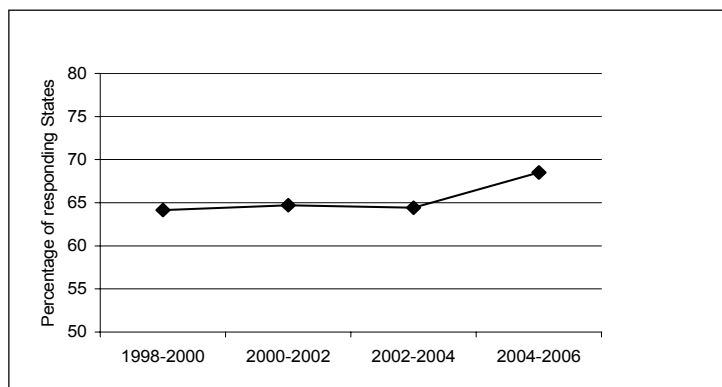
61. In the current reporting period, States have made some progress in the implementation of the provisions of the 1988 Convention and of the recommendations relating to judicial cooperation made by the General Assembly at its twentieth special session. This was mostly done by adopting legislation and entering into bilateral and multilateral agreements in the different areas. However, comparing the information provided in the replies to the fourth biennial questionnaire with that provided in previous reporting periods indicates that progress during the last reporting period has been modest (see figure XXIX).

62. Since the twentieth special session in 1998, many States have revised their legislation, rules or procedures to implement those recommendations. The measures relating to extradition, mutual legal assistance, controlled delivery and law enforcement cooperation have had a higher rate of implementation globally than those relating to transfer of proceedings, illicit trafficking in drugs by sea and protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses, although the percentage of states having legislation to facilitate cooperation with regard to combating illicit trafficking by sea has increased significantly. While the legal and procedural framework exists in many States, numerous difficulties remain in the implementation of all the measures.

63. Legal, procedural and technical difficulties remain with respect to the execution of requests for judicial cooperation, including extradition. Differences in legal systems, the non-extradition of nationals, translation problems and delays remain matters of concern. In most countries, procedures in the field of protection of victims have yet to be revised.

Figure XXIX

Overall measures for increasing judicial cooperation: global implementation



B. Recommendations

64. The following recommendations aimed at enhancing judicial cooperation are brought to the attention of the Commission on Narcotic Drugs:

- (a) States that have not yet done so should be encouraged to adopt legislation permitting extradition, mutual legal assistance and controlled delivery and ensure that those laws are flexible and kept up to date;
- (b) States should be encouraged, in particular, to adopt legislation and procedures to enable transfer of proceedings and cooperation in countering illicit trafficking in drugs by sea;
- (c) States should be encouraged to adopt legislation and procedures to enable protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses;
- (d) States should be encouraged to enter into, renegotiate or extend bilateral and multilateral treaties in the different fields of judicial cooperation, making use, when appropriate, of the relevant model treaties;
- (e) States should be encouraged to revise their procedures and legislation to provide for the extradition of nationals or the possibility to extradite nationals on condition that, if convicted, they will be returned to the country of nationality to serve their sentence;
- (f) States should consider revising their legislation to reform and simplify their procedures with respect to extradition, in particular as regards dual criminality conditions, definition of political offences and the possibility of simplifying surrender procedures;
- (g) States should consider lowering their procedural impediments to extradition and mutual legal assistance, in particular with respect to language and standard of evidence, using modern technology to speed up and improve results in casework and ensuring that competent authorities communicate with their foreign counterparts from the outset of the request process;
- (h) States should consider providing UNODC with copies of or links to websites containing such information, existing model forms, guidelines or manuals for extradition, mutual legal assistance, transfer of proceedings and other types of judicial cooperation to make possible the sharing of such tools through a secure website;
- (i) States should consider making use of model legislation and legislative guides, best practice guidelines in extradition and mutual legal assistance casework, as well as other tools developed by UNODC and its partners to train and assist competent authorities in drafting and executing effective requests for judicial cooperation;
- (j) When neighbouring States have different legal systems, consideration should be given to building overarching legal systems to enhance mutual legal assistance and extradition capacities among such States, including, when necessary, by the posting of criminal justice liaison personnel abroad;
- (k) Consideration should be given to organizing cross-border problem-solving forums for judicial cooperation casework practitioners to resolve problems

concerning unnecessary delay, postponement or refusal of cross-border extradition, mutual assistance and related requests;

(l) States should consider providing technical support and training to judges and prosecutors involved in judicial cooperation;

(m) States along significant drug trafficking routes should consider establishing joint teams of prosecutors dealing with drug trafficking and organized crime;

(n) With respect to controlled delivery, consideration should be given to ensuring that adequate resources are available to facilitate such operations;

(o) States should be encouraged to review existing systems with a view to improving the sharing of criminal intelligence and to develop cooperation between law enforcement agencies, including through the establishment of joint investigative teams, when necessary.
