



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

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**Fourth session**

Vienna, 8-17 October 2008

Agenda item 2 (c)

**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**

**Revised draft decision submitted by the open-ended working group of  
government experts on extradition, mutual legal assistance and  
international cooperation for the purposes of confiscation**

**Implementation of the provisions on international cooperation  
of the United Nations Convention against Transnational  
Organized Crime**

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

*Recalling* its decision 3/2, in which it decided that an open-ended working  
group of government experts on extradition, mutual legal assistance and  
international cooperation for the purposes of confiscation would be a constant  
element of the Conference,

*Noting* that the open-ended working group was convened during the fourth  
session of the Conference and, working in an environment of cooperation and  
goodwill, had engaged in a detailed review of the implementation of the articles on  
international cooperation of the United Nations Convention against Transnational  
Organized Crime,<sup>1</sup> resulting in a fruitful exchange of ideas and experiences  
regarding implementation of those articles,

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.



## I

### Substantive discussion of the working group

1. *Notes* that the open-ended working group discussed in depth the following matters:

(a) The different elements of article 16, on extradition, of the United Nations Convention against Transnational Organized Crime,<sup>2</sup> highlighting the potential of those provisions as a legal basis for extradition, and different aspects of the issue of the extradition of nationals, the principle of *aut dedere aut judicare* and dual criminality;

(b) The comprehensive provisions contained in article 18, on mutual legal assistance, of the Convention, which were found by the working group to constitute an integral set of rules applicable in areas in which no other treaty applies; ways and means of requesting assistance, such as by e-mail and oral communication; and the use of working languages;

(c) Article 13, on international cooperation for the purposes of confiscation, of the Convention, including the diversity of confiscation schemes found in national legislation, such as conviction-based confiscation and non-conviction-based confiscation;

2. *Takes note* of the recommendation of the working group to consider the use of videoconferencing and the giving of evidence by videolink, and its encouragement of States parties to provide in their domestic legal systems for that type of cooperation, which has various benefits, including its cost-effectiveness and potential for the protection of witnesses;

3. *Requests* the Secretariat to seek ways to support such use of videoconferencing and assist States in overcoming technical and legal obstacles, and to report to the Conference, at its fifth session, on the provision of such assistance;

4. *Decides* that an in-depth discussion on the application of articles 12, 13, 16 and 18 of the Convention should be held at the fifth session of the Conference, on the basis of clear, practical examples of the application of those articles, with a view to further facilitating the effective application of those articles;

5. *Requests* the Secretariat to collect from States parties, prior to the fifth session of the Conference, examples of the application of the above-mentioned articles, in particular in the area of international cooperation for the purposes of confiscation, including non-conviction-based confiscation;

## II

### Usefulness and use of the Convention as a basis for international cooperation in extradition, mutual legal assistance and international cooperation for the purposes of confiscation

6. *Emphasizes* that the Convention, as a global instrument with wide adherence, offers the broadest scope of cooperation to address existing and emerging forms of transnational organized crime;

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<sup>2</sup> Ibid.

7. *Notes* that the Convention is being used successfully by an increasing number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for the purposes of confiscation;

8. *Encourages* States parties to continue to make use of the Convention as a legal basis for international cooperation in extradition and mutual legal assistance, including confiscation, taking into account the extended scope of cooperation available under its article 16, on extradition, and article 18, on mutual legal assistance, and their internal legal requirements for the application of the Convention;

9. *Also encourages* States parties to fully utilize the Convention and the Protocols thereto when other bases for cooperation, such as bilateral agreements and domestic law, do not provide for effective extradition, mutual legal assistance or international cooperation for the purposes of confiscation, emphasizing in particular that the multilateral character of the provisions contained in articles 16 and 18 is of great value to practitioners, because it allows international cooperation with many States without the necessity of concluding additional bilateral agreements;

10. *Further encourages* States parties to promote awareness of the Convention and to facilitate training activities for central authorities, judges, prosecutors, law enforcement officers and officers of national central bureaux of the International Criminal Police Organization (INTERPOL) who are engaged in international legal cooperation in the fight against transnational organized crime through implementation of the Convention;

11. *Requests* the Secretariat to support, when requested, the provision of such training and awareness-raising at the national level;

### III

#### **Development of tools to facilitate international cooperation**

12. *Welcomes* the Mutual Legal Assistance Request Writer Tool designed by the United Nations Office on Drugs and Crime, which will assist criminal justice practitioners in drafting correct, complete and effective requests; encourages central authorities to make use, as appropriate, of the tool and provide feedback to the Office on such use; and requests the Secretariat to use the tool in training delivered to central authorities and practitioners;

13. *Welcomes also* the establishment of the online directory of central authorities for mutual legal assistance and authorities designated to deal with extradition, as well as authorities designated under article 8 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;<sup>3</sup>

14. *Requests* the Secretariat to further expand the directory to include authorities designated under article 13 of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and

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<sup>3</sup> Ibid., vol. 2241, No. 39574.

Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;<sup>4</sup>

15. *Notes* that a growing number of States parties have provided to the Secretariat information on their designated authorities; and urges all States parties to do so and update that information, which is vital for efficient cooperation;

16. *Welcomes* the collection of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Convention;

17. *Urges* States parties to continue to provide the Secretariat with data concerning their reliance on provisions of the Convention and the Protocols thereto in order to effect extradition, mutual legal assistance or other forms of international legal cooperation; and requests the Secretariat to update the catalogue of cases and disseminate it to the States parties;

#### IV

##### Strengthening of central authorities

18. *Takes note* of the conclusions and recommendations of the series of regional workshops organized by the Secretariat pursuant to Conference decision 3/2, held in Bogotá, Cairo, Dakar, Kuala Lumpur and Vienna in 2007 and 2008, for central authorities, liaison magistrates, judges, prosecutors and practitioners responsible for handling extradition and mutual legal assistance;

19. *Welcomes* the holding of those regional workshops and other training seminars, which proved useful for strengthening close working contacts between authorities and facilitating exchanges among counterparts;

20. *Requests* the Secretariat to pursue such activities in regions not yet covered by the previous workshops and to follow them up at the subregional and interregional levels, in response to the specific cooperation needs identified;

21. *Encourages* central authorities for mutual legal assistance and the competent authorities for extradition requests to make full use of existing regional networks; and requests the Secretariat to provide its support to strengthening networking among authorities at the interregional level and to explore ways to facilitate communication and problem-solving among such authorities by considering the establishment of a discussion forum on a secure network and by ensuring the greatest possible participation by experts and practitioners in the relevant fields, by seeking funding for participation by experts from developing countries, in the deliberations of the working group at future sessions of the Conference;

22. *Recommends* that, in accordance with Conference decision 3/4, assistance to States parties is to be provided for the implementation of the provisions of the Convention on extradition, mutual legal assistance and international cooperation for the purposes of confiscation;

23. *Reiterates* that international cooperation is one of the priority areas for technical assistance to support and promote the implementation of the Convention

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<sup>4</sup> Ibid., vol. 2326, No. 39574.

and the Protocols, as stated in the recommendations contained in paragraph 2 of Conference decision 3/4;

24. *Requests* the United Nations Office on Drugs and Crime, in its activities in support of international cooperation in extradition, mutual legal assistance and cooperation for the purposes of confiscation under various United Nations instruments, in particular the United Nations Convention against Corruption,<sup>5</sup> to take into account work carried out in other forums in order to avoid duplication of work, giving due regard to the specificity of each instrument.

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<sup>5</sup> Ibid., vol. 2349, No. 42146.