



Economic and Social Council

Distr.: General
13 January 2003

Original: English

Commission on Narcotic Drugs

Forty-sixth session

Vienna, 8-17 April 2003

Items 3 and 11 of the provisional agenda*

Follow-up to the twentieth special session of the General

Assembly: General overview and progress achieved by

Governments in meeting the goals and targets for the

years 2003 and 2008 set out in the Political Declaration

adopted by the Assembly at its twentieth special session

General debate of the ministerial segment: assessment of

the progress achieved and the difficulties encountered in

meeting the goals and targets set out in the Political

Declaration adopted by the General Assembly at its

twentieth special session

**Second biennial report on the implementation of the
outcome of the twentieth special session of the General
Assembly, devoted to countering the world drug problem
together**

Report of the Executive Director

Addendum

Measures to promote judicial cooperation

* E/CN.7/2003/1.



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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, measures to enhance the judicial process, such as the protection of witnesses and judicial officers, and other forms of cooperation.
2. The international drug control treaties provide the framework for judicial cooperation. As at 30 October 2002, the treaties enjoyed almost universal adherence. Since the twentieth special session of the General Assembly was held, in 1998: 19 States have become parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,¹ bringing the number of parties to that convention to 166 States, and 1 regional economic integration organization (the European Community); 17 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 179 States; and 15 States have become parties to the Convention on Psychotropic Substances of 1971,⁴ bringing the number of States parties to that convention to 172.
3. The present report contains a summary and analysis of the replies received from Member States to the second biennial questionnaire concerning progress made towards meeting the objectives set by the General Assembly at its twentieth special session in connection with judicial cooperation. A comparison of the results of the baseline (or first) reporting cycle (covering the period from June 1998 to June 2000) with those of the second reporting cycle (covering the period from June 2000 to June 2002) was only possible with reference to the 88 States that replied to the section on judicial cooperation in both questionnaires and in connection with those questions which remained the same in both questionnaires. In relation to questions that were introduced or amended in the second questionnaire, percentages given are based on the total of 112 States that replied to the second section on judicial cooperation, as it was not possible to make any comparison with results of the first questionnaire. After the first reporting period, the questionnaire was substantively amended.

II. Extradition

4. Extradition is one of the key forms of judicial cooperation, by which States may secure the rendition of fugitives wanted in their jurisdiction for serious offences, including drug-related offences. Article 6 of the 1988 Convention facilitates the extradition of alleged offenders for committing offences established by the parties, in accordance with the relevant provisions of that convention. Under article 6, paragraph 7, of the 1988 Convention, parties agreed to endeavour to

expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which article 6 applies.

5. Of the States responding in the second reporting cycle, most (88 per cent) had legislation permitting and facilitating extradition. The 1988 Convention and the measures adopted at the twentieth special session of the General Assembly called upon States to remove impediments to extradition, in particular the non-extradition of nationals. A comparison of the responses of those States which responded to both the first and second questionnaires showed that 32 per cent of those that had sent replies for the first reporting period had reviewed or strengthened their extradition laws, whereas only 28 per cent of those that sent replies for the second reporting period had done so. In the African region, 42 per cent of the responding States had undertaken such a legislative review with a view to strengthening their extradition laws, compared with 35 per cent in the Americas, 16 per cent in Asia, 27 per cent in Europe and only one of the responding States in Oceania. A number of States provided information concerning changes to their legislation in connection with extradition. For example, in December 2000, the Government of China had enacted a law allowing international cooperation with other Governments in connection with extradition. About one third (38 per cent) of the States reported that they kept statistics on extradition requests made or received in relation to drug trafficking cases.

6. Over half of all the States that responded (52 per cent) still had laws that precluded or seriously limited the extradition of nationals. A comparison of the responses of those States which responded in both reporting cycles showed that 48 per cent of those responding in the first reporting cycle limited the extradition of nationals, whereas 55 per cent of those responding in the second reporting cycle did so. However, there was some progress at the regional level. For example, Germany reported that, in 2000, the constitutional basis had been created to extradite German nationals to other member States of the European Union or to stand trial before an international court. In June 2002, Denmark was in the process of adopting a similar law for the extradition of Danish nationals to European Union member States and to other States. Yemen reported that it was possible to extradite its nationals to Arab States with which it had concluded agreements on judicial cooperation. The Netherlands reported that its nationals could be extradited if the requesting State guaranteed that the offender would be returned to serve any custodial sentence. In terms of the regional groupings, 50 per cent of the responding States in Africa had laws strictly limiting the extradition of nationals, compared with 25 per cent of the States in the Americas, 52 per cent in Asia and 76 per cent in Europe. Around a third of the responding States had developed model forms for, guides to or manuals on making requests for extradition, a percentage similar to that recorded for the first reporting period.

7. Most States (80 per cent) dealt with extradition through bilateral agreements; and 58 per cent reported that they had entered into multilateral agreements to facilitate extradition. Nearly half (45 per cent) of the responding States reported that, where appropriate, they had made use of the Model Treaty on Extradition (General Assembly resolution 45/116, annex) when negotiating extradition treaties. A number of regional agreements gave effect to extradition between their member States. Examples included the Economic Community of West African States Convention on Extradition; the Commonwealth Scheme for the Rendition of Fugitive Offenders;

the Convention on Extradition, adopted at Montevideo on 26 December 1933; the 1957 European Convention on Extradition;⁵ and the Council Act of 10 March 1995, adopted on the basis of Article K.3 of the Treaty on European Union, drawing up the Convention on simplified extradition procedure between the member States of the European Union. Some States noted that there was a need to update some extradition treaties. Multilateral extradition agreements also existed between Arab States within the framework of the Council of Arab Ministers of the Interior. The European Commission reported that it had proposed for adoption the introduction of a European arrest warrant that would allow the enforced transfer of a person from one member State to another, based on the mutual recognition of court judgements.

8. Many States had not experienced specific difficulties while negotiating, ratifying or giving effect to extradition agreements. However, one State in Central Africa mentioned that there had been financial problems associated with the implementation of such agreements. Other States, such as Botswana and Oman, stated that differences between the extradition laws in the various countries and their extradition procedures had caused difficulties. In particular, the formalities required by some requested States on presentation of requests had presented problems. Spain and Trinidad and Tobago stated that the quality of the evidence provided by requesting States did not always meet the authentication requirements of the requested State. In that regard, Sweden commented that the main problem had been finding a formula whereby the warrants of arrest would be mutually recognizable by the requesting and requested States, thus avoiding the necessity of providing evidence to substantiate probable cause. Argentina reported that obtaining extradition for financial crimes raised difficulties. The Czech Republic noted that the requirement of double incrimination had been a reason to refuse extradition.

9. Delays had also been caused by the length of time required for processing requests and the difficulties involved in freezing assets. Panama required requesting States to formalize their extradition requests within a certain time limit; otherwise, the offenders would be deported rather than extradited. The Republic of Korea reported that, owing to differences in the legal systems of countries, in some cases the formalities of extradition required too much time, which caused delays and impeded investigations. In that regard, it was considered that informal channels of communication between law enforcement agencies should be fostered and formal channels should be further streamlined to facilitate extradition. Another difficulty, encountered by Belize, related to the length of time it could take States parties to ratify extradition agreements, which caused delays in pending extradition cases.

10. European States such as Austria, Bulgaria, Italy and the United Kingdom of Great Britain and Northern Ireland had encountered difficulties while negotiating or giving effect to extradition treaties, owing to the existence of punishments that were not consistent with the requirements of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in particular capital punishment, imposed by some requesting States. In several cases, it was noted that the extradition of nationals remained an impediment. In some cases, requests were refused because of a lack of extradition relations between the requesting and requested States. Ukraine reported that a certain State had declined to sign agreements with it for mutual legal assistance in connection with extradition. El Salvador considered that scant use was made of the mechanism of extradition, often owing to ignorance of the treaties in force.

11. In conclusion, while many countries had legislation and treaties providing for extradition, it was impeded by differences in national laws and procedures. In addition, extradition procedures needed to be streamlined, since delays could defeat the timely rendition of fugitives. Little progress had been made in easing restrictions on the extradition of nationals and only a few States were reviewing their extradition laws and procedures.

III. Mutual legal assistance

12. 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. A majority of the States responding to the second biennial questionnaire (79 per cent) reported having adopted legislation permitting and facilitating judicial cooperation with other States in connection with mutual legal assistance; that was about the same proportion of States as in the first reporting cycle. A comparison of the responses of those States which responded to both the first and second biennial questionnaires showed that significant progress had been made: 27 per cent of the States indicated that they had reviewed or strengthened procedures for judicial cooperation in the first reporting period, compared with 38 per cent in the second reporting period. In terms of the regional groups, in all the regions except Asia, over 80 per cent of States had legislation facilitating mutual legal assistance; in Asia, 60 per cent had such legislation. While the overall number of States having legislation on mutual legal assistance remained stable, there was an increase of 11 per cent in States reviewing, simplifying or otherwise strengthening such procedures. In the African region, 50 per cent of the States that responded had reviewed or strengthened those procedures, compared with 40 per cent in the Americas, 30 per cent in Asia, 35 per cent in Europe and only one State in Oceania.

13. Over one third of all responding States (36 per cent) had developed model forms for, guides to or manuals on making requests for mutual legal assistance. About one third of the States (35 per cent) had statistics available on the requests for mutual legal assistance that had been made or received in connection with drug trafficking cases. A total of 70 per cent of all responding States had entered into bilateral agreements in relation to mutual legal assistance and 60 per cent had such multilateral agreements. A regional analysis of the States having multilateral agreements to facilitate mutual legal assistance revealed that in Africa 54 per cent of the responding States had such agreements, compared with 80 per cent in the Americas, 20 per cent in Asia, 97 per cent in Europe and only one State in Oceania. A total of 45 per cent of States reported that, where appropriate, they had made use of the Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex).

14. The multilateral conventions mentioned in the responses to the second biennial questionnaire as making provision for mutual legal assistance included the Inter-American Convention on Mutual Assistance in Criminal Matters, the Common Market of the Southern Cone (MERCOSUR) Protocol on Mutual Legal Assistance in Criminal Matters and the Inter-American Convention on Letters Rogatory.⁶ The member States of the Arab Maghreb Union, the League of Arab States, the Organization of African Unity (now called the African Union) and the Organization

of the Islamic Conference were also covered by regional conventions. A draft convention on mutual legal assistance under negotiation for East Africa, would cover 11 countries in that region. The 1959 European Convention on Mutual Assistance in Criminal Matters⁷ and the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the member States of the European Union of 2000 had facilitated mutual assistance among States parties in Europe.

15. Panama reported that it had simplified the procedures for mutual legal assistance in drug-related cases through agreements and arrangements and the number of requests received and executed had risen significantly. Spain reported that the number of requests for mutual legal assistance that it had received had risen from 1,525 in 2000 to 1,650 in 2001. Several States, among them the Czech Republic, had updated their legislation dealing with judicial cooperation, including mutual legal assistance, in 2002. Other countries, among them Belize, had simplified the procedure for assistance by removing the requirement for a treaty before assistance could be provided.

16. Norway reported that a treaty arrangement was not a precondition for providing mutual assistance, but if the assistance requested involved the use of coercive measures, the offence had to be punishable under Norwegian law. Spain stated that difficulties encountered with mutual legal assistance included long delays in the processing by States of requests for and difficulties with the freezing of assets, as well as the formalities required for mutual legal assistance. Belize commented that delays by other States in ratifying a treaty for mutual legal assistance had impeded judicial cooperation. El Salvador noted difficulty in providing assistance owing to the fact that some requests did not fulfil the requirements of the applicable treaties.

17. The Twenty-sixth Meeting of Heads of National Drug Law Enforcement Agencies, Asia and the Pacific, held in Bangkok from 11 to 15 November 2002, identified measures to promote judicial cooperation as a priority area for attention by the ministerial segment of the Commission. It considered that it was important that States take further action to establish and promote treaty relations, legislation and procedures to facilitate judicial cooperation between States, especially in the areas of extradition, mutual legal assistance and measures to counter money-laundering. Differing legal and procedural requirements and an absence of treaty relations often inhibited full cooperation between States. Since criminal groups often operated across national borders, the Meeting recommended that Governments take measures to ensure that law enforcement agencies cooperate better in their efforts to combat drug trafficking.

IV. Transfer of proceedings

18. The recommendations of the twentieth special session of the General Assembly and the 1988 Convention encouraged States to transfer to one another proceedings for criminal prosecution in cases where such transfer was considered to be in the interests of a proper administration of justice, in particular if their legal systems were similar and they did not extradite their own nationals. Almost half of the responding States (46 per cent) stated that they had legislation providing for the

transfer of proceedings. A comparison of the responses from those countries which had responded in both reporting cycles showed that 48 per cent of those which had responded in the first reporting cycle had legislation facilitating the transfer of proceedings, compared to 51 per cent of those responding in the second reporting cycle, an increase of 3 per cent. In the African region, 37 per cent of the States that responded had such legislation, compared with 55 per cent in the Americas, 23 per cent in Asia and 76 per cent in Europe. Only 12 per cent of all the States that responded had reviewed, simplified or otherwise strengthened their procedures in connection with the transfer of proceedings in drug-related cases. In each of the regions, except for the Americas, over 10 per cent of the States had reviewed or strengthened such procedures; in the Americas, only 5 per cent of the States that responded had done so. Many States had entered into bilateral (18 per cent) or multilateral (23 per cent) agreements for the transfer of proceedings. In Europe, 54 per cent of the States that responded had entered into multilateral agreements for the transfer of proceedings, compared with 25 per cent in the Americas and 3 per cent in Asia. Only a few States (13 per cent) had referred to the Model Treaty on the Transfer of Proceedings in Criminal Matters (Assembly resolution 45/118, annex). The situation in respect of that recommendation appeared to have been relatively static following the first reporting period.

19. Some coverage was provided by multilateral instruments, such as the 1972 European Convention on the Transfer of Proceedings in Criminal Matters, the 1970 cooperation agreement between the attorneys-general of the Nordic countries and the 1993 Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of the Commonwealth of Independent States (CIS). In the framework of European Political Cooperation, the Agreement of Rome, 6 November 1990, between the Member States of the European Communities on the transfer of proceedings in criminal matters provided for the transfer of proceedings to a member State if the accused was a national of that State, was currently located in that State or had his or her ordinary residence there.⁸ Some States reported that, although they had no specific treaties on the subject, when necessary, proceedings could be transferred pursuant to the provisions of domestic law or other treaties on judicial assistance.

20. The placing of time limits on prosecutions and failures to meet the requirement of double incrimination could create difficulties in the transfer of proceedings, as was reported by the Czech Republic. Norway reported that requests for the transfer of proceedings had been refused when evidence was located in the requesting States and it was thus difficult to provide sufficient evidence in the requested State to convict the accused person. The nationality of the accused person could present an obstacle to the transfer of proceedings, as experienced by Georgia. In certain cases, an agreement had been negotiated for the transfer of proceedings, but one of the parties had failed to ratify the agreement, as was reported by Ecuador. Difficulties could also arise in connection with restrictions on the movement of persons between countries arising from phytosanitary regulations.

V. Law enforcement cooperation and exchange of information

21. States were asked to provide information concerning measures they had taken aimed at the exchange of information and other forms of cooperation, including training, as recommended by the General Assembly at its twentieth special session.

A. Exchange programmes

22. A total of 76 per cent of the States that responded to the second 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. In East Africa, exchange programmes involving anti-narcotics personnel at airports had been initiated, as well as regional training on drug investigative techniques for officers in police, customs and immigration departments. In addition, training for drug control units was being provided at the Regional Drug Control Training Centre in Abidjan and the Academy for Drug Research in Egypt. Association of South-East Asian Nations (ASEAN) member States conducted information exchange and joint operations with other ASEAN member States, the Drug Enforcement Administration of the United States of America and the Australian Federal Police.

23. Many States had agreed to the posting of, and to receiving visits from, police and drug liaison officers from other States. For example, the Australian Federal Police provided the short-term attachment of intelligence analysts to States in the Pacific and had a network of overseas liaison officers. A number of States in Latin America had participated in training provided by member States of the European Union. The Office of Overseas Prosecutorial Development, Assistance and Training of the United States Department of Justice assisted States on request in the development of their judicial institutions. The Office was currently providing assistance in Africa and the Middle East, Asia and the Pacific, Central Asia, Central and Eastern Europe, and Latin America and the Caribbean, including assistance in the form of 20 resident legal advisers, who provided full-time advice and technical assistance to 13 host Governments.

B. Sharing with other States information concerning criminal investigation techniques

24. Many of the responding States (71 per cent) had shared with other States information concerning criminal investigation techniques. Many States had sent selected personnel abroad to attend training workshops, seminars and meetings where information exchanges occurred or had hosted such meetings for personnel from other States. In some cases, the information provided concerned investigative techniques to counter not only drug trafficking, but also organized crime and terrorism. Directors of criminal investigation departments and heads of drug control units in East Africa had shared information at operational meetings, as had police chiefs in Southern Africa. The European Police Office (Europol) had facilitated the exchange of information between member States and supported the criminal investigation and scientific techniques used by police against serious forms of international criminality, including drug trafficking. In addition, Greece noted the

exchange of information through the Poland-Hungary Aid for the Reconstruction of the Economy (PHARE) Programme and through the Adriatic and Ionian Initiative. Law enforcement agencies in CIS member States had shared information on the basis of multilateral cooperation agreements, with individual partner agencies under bilateral agreements, and in specific joint investigative operations. The Government of Turkey had established, in cooperation with the United Nations International Drug Control Programme (UNDCP), the Turkish International Academy against Drugs and Organized Crime in order to train law enforcement officers from Turkey and other countries. The Bahamas shared information on an ongoing basis by supporting the participation of officers at drug commanders' conferences and at the International Drug Enforcement Conference and, on a bilateral basis, with other States in the region. Member States of MERCOSUR and the Andean Community provided mechanisms for cooperation among States in Latin America.

25. The Islamic Republic of Iran reported that it had, since 2000, established a regional information exchange centre at its drug control headquarters. In Asia, information on investigative techniques was shared through meetings of the ASEAN Chiefs of Police (ASEANAPOL) and the ASEAN Senior Officials on Drug Matters, as well as through the ASEANAPOL database. Japan reported that the National Police Agency has been holding the Asia-Pacific Operational Drug Enforcement Conference (ADEC) on an annual basis since 1995 and the seminar on control of drug offences on an annual basis since 1962. Austria reported that information was being exchanged in the context of security partnerships, in particular with its eastern neighbouring States and through International Criminal Police Organization (Interpol) and Europol channels. Furthermore, in Europe, a number of international organizations, including Interpol, the Customs Co-operation Council (also called the World Customs Organization) and the Southeast European Cooperative Initiative (SECI), had been active in the area of information exchange. UNDCP has also facilitated information exchange, particularly among the participants at meetings of Heads of National Drug Law Enforcement Agencies.

26. In addition to the exchange of information occurring at the regional level, several States had provided, on a bilateral basis, information on criminal investigation techniques. For example, Australia, France, Italy, the United Kingdom and the United States had provided courses on investigation techniques to a number of other States.

C. Establishing specialized units for investigating drug trafficking cases

27. Most of the States that replied (79 per cent) had established specialized units for investigating cases involving drug trafficking. In many cases, there were specialized drug control units in law enforcement agencies, for example, in the police, customs authorities, the coast guard, bureau of investigation, port and airport investigation departments, canine training centres and armed forces. The specialized units served various functions in different countries. For example, China reported that, in addition to the Drug Control Bureau, which had been established in 1998, each province, autonomous region and municipality had specialized drug law enforcement units. Colombia reported that it had special criminal investigation units to combat organizations involved in trafficking in cocaine, heroin and precursor

chemicals. The Netherlands had established a synthetic drugs unit comprising seven relevant authorities to combat and prevent the illicit manufacture and trade in synthetic drugs. In the Russian Federation, in addition to the Chief Directorate for Combating Illicit Drug Trafficking, which had existed since 1991, the Centre for Inter-agency Cooperation for the Suppression of Illicit Drug Trafficking had been established in 1998. Spain and the United Kingdom were looking to set up, under the provisions of a European Union framework decision on joint investigations teams, a joint investigation team consisting of law enforcement officers who would investigate organizations involved in smuggling cocaine between countries in South America, Spain and the United Kingdom.

D. Enhancing technical cooperation, training and human resource development for law enforcement personnel

28. Many of the responding States (77 per cent) had taken measures to enhance technical cooperation, training and human resource development for law enforcement personnel. In a number of countries, training schools had been established to provide specialized training for drug law enforcement personnel. Law enforcement officers had also participated in training programmes in countries outside of their own. In addition to national training schools, there were a number of regional and subregional training centres, such as the School of the Andean Community for Anti-Drug Intelligence, located in Lima, and the Naif Arab Academy for Security Studies, located in Riyadh. New Zealand reported that its police and customs officers had, as part of a Pacific Island Forum initiative, been involved in a five-year training programme for law enforcement personnel. Several States had assisted others from the same region and from other regions in training law enforcement personnel.

29. Colombia stated that the staff of its special criminal investigation units had received training in handling communication equipment and equipment for intercepting mobile and fixed-line telephone calls. The Colombian armed forces were being supported by UNDCP in studying criminal investigation procedures.

30. UNDCP had supported technical cooperation and training activities through its network of regional and national offices. The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders had conducted international training courses and seminars for criminal justice practitioners and had recently undertaken courses related to combating transnational organized crime, including drug trafficking. The Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States had assisted in the provision of training of law enforcement officers in Latin America and the Caribbean.

VI. Use of modern communication technologies to facilitate the exchange of information between countries

31. The majority of the States that replied (78 per cent) reported that they had used modern communication technologies to facilitate the exchange of information with other States. A comparison of the two reporting cycles showed that 69 per cent of the States responding for the first reporting cycle reported using modern

communication technologies to facilitate the exchange of information with other States, compared with 81 per cent of the States responding for the second reporting cycle: an increase of 12 per cent. In the African region, 71 per cent of the responding States reported using modern communication technologies, compared with 85 per cent in the Americas, 72 per cent in Asia, 91 per cent in Europe and only two responding States in Oceania.

32. The Inter-American Drug Control Telecommunications Network, sponsored by CICAD, had facilitated the exchange of information relating to chemicals and precursors that involved 11 countries in South America. The Unified Caribbean On-Line Regional Network (UNICORN) system had facilitated communication in the Caribbean. Several States in Latin America and the Caribbean reported that in the United States, the Joint Intelligence Collection Center, as well as the El Paso Intelligence Centre, had made possible the exchange of information. The Russian Federation reported on a project to create a consolidated database for the special services of CIS member States. Seven CIS member States had been connected and work was being carried out to extend the network of users. A confidential section of the database on persons involved in organized criminal activities, particularly drug trafficking, had been started. Extensive use had also been made of the Interpol communication network (X.400), as well as dial-up communication with Europol. Germany reported that some States had access to a number of databases, including the electronic transmission of fingerprints and photographs, between European Union member States and MAR-Info, the maritime traffic information system, concerning illicit trafficking by sea. Turkey reported that it had a computer-based information exchange programme with Albania, Azerbaijan, Bulgaria and Georgia, enabling the encrypted exchange of fingerprints, photographs and passports. The Customs Enforcement Network of the World Customs Organization and the Customs Asia Pacific Enforcement Reporting System were databases that shared information on seizures and concealment methods, in addition to offering secure communication facilities between authorities.

33. Many States reported extensive use of facsimile transmission of documents, electronic mail (e-mail) and other Internet-based technologies. For example, the United States reported that it had used e-mail and the Internet to download and transmit national legislation, videotapes, PowerPoint presentations and simultaneous translations, when necessary. Modern communication technologies had also been used at the national level by authorities within a single country and with their counterparts in other countries. Some States reported that they had also made considerable use of telephones, telexes and the postal system. Denmark and Spain highlighted the importance of encrypting communications.

VII. Other measures to strengthen cooperation with law enforcement agencies of other countries

34. A total of 69 per cent of the States that responded noted that they had taken other measures to strengthen cooperation with law enforcement agencies of other countries. For example, Bolivia reported that the new Andean Cooperation Plan for the Control of Illicit Drugs and Related Offences had been adopted as part of a biennial plan of action that provided for measures to strengthen cooperation between countries in the subregion. In Germany, the customs authorities had carried

out the function of a central intelligence unit for the international exchange of information on drug-related data in air traffic (CARGO-Info), maritime traffic (MAR-Info) and drug smuggling by road along the so-called Balkan route (BALKAN-Info). Similarly, the Nordic police cooperation agreement, including the Nordic police and customs cooperation agreement, had facilitated the exchange of information, established regular meetings and facilitated judicial cooperation between the relevant authorities of the States members. New Zealand, in April 2002, had signed a declaration by customs authorities in Asia and the Pacific on guidelines for mutual administrative assistance, with a view to promoting cooperation in efforts to counter smuggling. The Netherlands reported that the Comprehensive Action against Synthetic Drugs in Europe (CASE) pilot project was undertaking forensic drug profiling of seized synthetic drugs among European Union member States.

35. At the bilateral level, the Czech Republic had signed a number of treaties on police cooperation in combating drug-related crime, terrorism and organized crime. Thailand reported that annual bilateral meetings for drug law enforcement authorities in South-East Asia had provided a channel for the exchange of information for operational officers. The Republic of Korea had hosted quarterly meetings of drug liaison officers posted in several foreign embassies in order to enhance cooperation. Swaziland had strengthened its bilateral cooperation with the South African police force in destroying cannabis cultivated in its mountainous territory. The United States had provided to other States technical assistance in drug-related matters, including through the review of national legislation, upon request, and the provision of assistance in judicial cooperation. In Ukraine, security services were playing a key role in developing a database for scientific and technical information on narcotic drugs, psychotropic substances and precursors of the council of heads of security and special services of CIS member States. Furthermore, cooperation by the law enforcement agencies in South-East Europe was within the framework of the Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova (GUUAM) Group. The regional meetings of heads of national drug law enforcement agencies, organized by UNDCP, played an important role in promoting regional cooperation in countering drug trafficking.

VIII. Controlled Delivery

36. A comparison of the States that sent replies for the two reporting periods shows that 67 per cent of those States which sent replies to the first questionnaire reported that their domestic legal system permitted controlled deliveries, compared with 74 per cent of those States which sent replies to the second questionnaire, an increase of 7 per cent. On a regional basis, the 50 per cent of the responding States in Africa had legislation permitting controlled deliveries, compared with 75 per cent in the Americas, 60 per cent in Asia and 88 per cent in Europe. Furthermore, while 22 per cent reported that they had reviewed, amended, simplified or strengthened procedures for controlled delivery in drug-related cases in the period 1998-2000, 38 per cent reported that they had done so in the period 2000-2002, an increase of 16 per cent. In Africa, 25 per cent of the responding States had reviewed the relevant procedures, compared with 40 per cent in the Americas, 40 per cent in Asia, 36 per cent in Europe and only two States in Oceania.

37. Most States reported that the relevant authority or authorities had given permission for controlled delivery on a case-by-case basis. In some countries, senior police officials authorized the use of that practice; in others, the decision of a judicial authority was required. Under the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, each member State of the European Union must ensure that, at the request of another member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences. New Zealand noted that controlled deliveries of drugs were permitted under the relevant legislation, but that that did not apply to precursor chemicals.

38. Of the States permitting controlled deliveries, many did not report having undertaken any controlled deliveries, or had undertaken fewer than 10 controlled deliveries. At the higher end of the scale, Japan reported having undertaken 57 controlled deliveries, Turkey undertook 78, Italy 89 and the Russian Federation 209. Thailand noted that delays caused by the controlled delivery process could alert the suspects to the law enforcement operation. The difficulties encountered included lack of responsiveness and cooperation on the part of foreign counterparts (reported by Spain, Turkey and Zimbabwe), lack of resources to undertake the operation (reported by Philippines, Kyrgyzstan and Zimbabwe), lack of technical equipment and expertise (reported by Myanmar) and poor communication (reported by Zimbabwe). Differences in the laws and procedures of countries could delay operations. Transporting controlled deliveries through transit States could present evidential difficulties for some States, especially when it was necessary to change aircraft. The continuity of the evidential exhibit and the involvement of a liaison officer and law enforcement authority from the transit State would then be necessary. Sometimes there were problems in identifying the proper authority for coordination in requested States. Other difficulties that were reported included a greater awareness among some illicit drug importers of the use of electronic monitoring techniques, and the monitoring by drug traffickers of the progress of shipments via the Internet. Some illicit drug importers were prepared to let consignments sit for several weeks in order to frustrate law enforcement action or to use "safe houses", which had no identifiable connection with the importers. It was also noted that greater use was being made of express mail services, which reduced the time available for controlled deliveries to be undertaken. Spain indicated that requesting States sometimes provided too little or inaccurate information concerning controlled deliveries. The short time available to check on information and make arrangements for operations could present difficulties.

IX. Drug trafficking by sea

39. Drug trafficking by sea remained a major challenge for Member States. Of those States reporting on both the first and the second reporting periods, 56 per cent noted in the second questionnaire that they had legislation permitting and facilitating judicial cooperation for countering drug trafficking by sea, compared with 65 per cent in the first questionnaire. A total of 51 per cent of all States that sent replies to the second questionnaire reported that they had such legislation. In the African region, 37 per cent of the responding States had such legislation in place, compared with 85 per cent in the Americas, 37 per cent in Asia, 61 per cent in

Europe and only one State in Oceania. Of those States, 25 per cent had reviewed, simplified or otherwise strengthened procedures for executing requests in connection with drug trafficking by sea. In Africa 8 per cent of the States had undertaken such a review, compared with 50 per cent in the Americas, 24 per cent in Asia, 26 per cent in Europe and one of the two reporting States from Oceania.

40. Some States had taken steps to improve coordination between domestic authorities. For example, Costa Rica reported that, in March 2002, it had concluded the protocol on actions of authorities involved in the application of the Law on Narcotics, Psychotropic Substances, Drugs of Unauthorized Use, Money-Laundering and related Activities in Waters under Costa Rican jurisdiction. The authorities involved were public prosecutors, judicial police, the coast guard and drug control police. Furthermore, Japan reported that, in April 2002, it had established the Transnational Organized Crime Strike Force, dedicated to countering the smuggling of illicit drugs and illegal immigrants by sea. The Netherlands stated that customs authorities had selected cargo for checking before arrival based on profiling of cargo and vessels and had taken steps to improve coordination between checking and investigation services.

41. The same proportion of States replying to both reporting questionnaires (31 per cent) reported that they had agreements with other States relating to drug trafficking by sea. For example, a number of States in the Caribbean had bilateral agreements with the United States, including agreements on prior authorization to allow United States law enforcement agencies to board vessels under those States' flags if they were suspected of engaging in drug trafficking. Indonesia reported that ASEANAPOL had strengthened procedures for combating drug trafficking by sea. Spain reported that a draft convention on the suppression by customs authorities of illicit drug trafficking on the high seas had been submitted for discussion in the European Council's Working Party on Customs Cooperation, under article 34 of the Treaty on European Union. The Netherlands had signed a letter of intent for better cooperation with Colombia within a port security programme, including cooperation between public and private parties, such as the police and port companies.

42. In 2001, Thailand and UNDCP had organized a subregional legal seminar on drug trafficking by sea for participants from Cambodia, China, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam. The seminar had reviewed the measures in each of those countries for the suppression of drug trafficking by sea. Thailand had followed up that seminar with a number of other seminars and was enacting legislation for cooperation in maritime interdiction.

43. Referring to the difficulties in meeting requests for assistance in countering illicit traffic by sea, Spain noted that the fact that changes of flags by ships made it difficult to identify the State where a ship was registered. Mexico and the United States had established a bilateral working group in 2000 for the exchange of information, which had resulted in successful maritime interceptions. Mexico reported that it had executed 59 requests for such assistance in 2000 and 95 requests in 2001; it added that it had not refused any requests, since all the requests received had been properly formulated and coordinated with the requesting States.

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

44. A large proportion of the States that sent replies to the second questionnaire (63 per cent) reported that they had in place legislation, rules or procedures for the protection of judges, prosecutors, surveillance personnel, law enforcement officers and witnesses.

45. In the reporting of States concerning the review of legislation for the protection of judicial and law enforcement personnel and witnesses, there was little change between the two reporting periods. Of those States which responded to both questionnaires, around 22 per cent had reviewed, amended, simplified and/or strengthened procedures in connection with the protection of judges and prosecutors and 22 per cent had done the same in connection with surveillance personnel and law enforcement officers. A total of 36 per cent had undertaken such measures in connection with the protection of witnesses.

46. One State noted that its criminal procedure code provided procedures for reviewing measures for the protection of witnesses, but that that had not been undertaken because of a lack of resources. Some States had a number of measures available for the protection of witnesses, including the concealment of witnesses during trial and the protection of information about witnesses. In Thailand, a law on witness protection was under consideration by the parliament. Another State noted that the law imposed strict penalties on any person who assaulted a drug law enforcement officer, including fifteen years of imprisonment for causing an injury to such an officer.

XI. Conclusions and recommendations

A. Conclusions

1. Extradition

47. Almost all States had adopted laws permitting extradition (88 per cent of the States replying to the second questionnaire). However, the extradition of nationals had remained an impediment to extradition in many countries, and there had been no apparent progress in that area. There had been no increase in the numbers of States reviewing, simplifying or otherwise strengthening the procedures in connection with extradition in drug-related cases. While bilateral and multilateral agreements and arrangements had facilitated extradition, legal and procedural impediments to extradition, including undue delays in examining and executing requests for extradition, had remained.

2. Mutual legal assistance

48. Most States (79 per cent) had in place legislation permitting judicial cooperation. While that level remained stable, the number of States reviewing and simplifying procedures increased by 11 per cent in the second reporting cycle. Many States had multilateral and bilateral agreements facilitating mutual legal assistance. However, such agreements had been concluded mostly between States in the same

region. Differing legal and procedural requirements and an absence of treaty relations continued to inhibit full cooperation between States.

3. Transfer of proceedings

49. Only around half of the States had in place legislation permitting the transfer of proceedings. There had been a small improvement in the second reporting cycle. Only a few States (12 per cent) had reviewed their laws and procedures for the transfer of proceedings. Evidential requirements in different countries continued to inhibit the transfer of proceedings, as did the lack of legislation and treaty relations.

4. Law enforcement cooperation and exchange of information

50. Most States (over 70 per cent) had in place measures for the exchange of information and measures to promote law enforcement cooperation.

5. Controlled delivery

51. In the second reporting cycle there was an increase (of 7 per cent) in the use of controlled delivery. Furthermore, more States (16 per cent) had reviewed, amended or strengthened their controlled delivery procedures. Further improvements were required to respond to requested States, streamline procedures and improve the provision of information in connection with controlled delivery requests.

6. Maritime trafficking

52. The number of States with legislation permitting and facilitating cooperation with other States in countering drug trafficking by sea did not increase during the second reporting period. Several States (25 per cent) had reviewed, simplified or otherwise strengthened procedures for executing requests to cooperate against drug trafficking by sea.

B. Recommendations

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

(a) Informal channels of communication between law enforcement agencies should be fostered, and formal channels should be further streamlined to facilitate judicial cooperation more efficiently;

(b) States should take further action to establish and promote treaty relations, legislation and procedures to facilitate judicial cooperation between countries, at the regional and interregional levels;

(c) States should promote and accelerate the establishment of effective central authorities for extradition and mutual legal assistance in cases involving drug trafficking by sea, giving special attention to ensuring the availability of all the necessary means of communication; the contact details of these authorities should be regularly provided to UNDCP and updated whenever necessary;

(d) States should consider providing to UNDCP copies of existing mutual legal assistance manuals or other relevant manuals and/or links to web sites containing such information;

(e) At the regional level, States should endeavour to strengthen criminal justice infrastructure along major drug trafficking routes;

(f) When neighbouring States have different legal systems, consideration should be given to building inter-legal systems to enhance mutual legal assistance and extradition capacities among such States;

(g) Consideration should be given to organizing problem-solving forums for practitioners to resolve problems concerning unnecessary delay, postponement or refusal of cross-border extradition, mutual assistance and related requests;

(h) States should consider lowering the language requirements for requests as far as possible (that is, accepting a common language of communication when feasible);

(i) States should consider providing for simplified extradition in cases involving consent of the offender;

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

(k) States with significant problems should consider establishing joint teams of prosecutors dealing with drug trafficking and organized crime.

Notes

¹ *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

² United Nations, *Treaty Series*, vol. 520, No. 7515.

³ *Ibid.*, vol. 976, No. 14152.

⁴ *Ibid.*, vol. 1019, No. 14956.

⁵ *Ibid.*, vol. 359, No. 5146.

⁶ *Ibid.*, vol. 1438, No. 24386.

⁷ *Ibid.*, vol. 472, No. 6841.

⁸ The European Political Cooperation conventions were negotiated before the 1991 Treaty on European Union and not all European Union member States were parties to them.