



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

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## Working Group on International Cooperation

Vienna, 27 and 28 October 2015

### Provisional agenda and annotations

#### Provisional agenda

1. Organizational matters:
  - (a) Opening of the meeting;
  - (b) Adoption of the agenda and organization of work.
2. Gathering and sharing electronic evidence.
3. Maximizing efficiencies, including the use of liaison officers and police sharing mechanisms.
4. Update by the Secretariat on its tools related to international cooperation, including with regard to the gathering of information on the implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime.
5. Use of the United Nations Convention against Transnational Organized Crime as a legal basis for international cooperation against all forms of transnational organized crime.
6. Other matters.
7. Adoption of the report.

#### Annotations

##### 1. Organizational matters

##### (a) Opening of the meeting

At its meeting held on 27 March 2015, the extended Bureau of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime approved the dates of 27 and 28 October for the meeting of the Working Group on International Cooperation.



The meeting of the Working Group on International Cooperation will be opened on Tuesday, 27 October 2015, at 10 a.m.

**(b) Adoption of the agenda and organization of work**

At its meeting held on 29 May 2015, the extended Bureau of the Conference agreed on the provisional agenda for the meeting of the Working Group on International Cooperation.

**2. Gathering and sharing electronic evidence**

Crimes involving digital evidence pose unique challenges for international cooperation. Traditional criminal procedural laws typically contain provisions on the gathering and admissibility of evidence. However, evidence in electronic form such as computer data and electronic records can be altered easily. Thus, the gathering and handling of electronic evidence should guarantee its integrity, authenticity and continuity during the entire time period between its seizure and its use in trial.

As stated in the discussion guide for the thematic discussion on international cooperation in criminal matters, held at the twenty-third session of the Commission on Crime Prevention and Criminal Justice (E/CN.15/2014/12, para. 57), owing to the volatile nature of electronic evidence, international cooperation to combat cybercrime requires a timely response and the ability to request specialized investigative actions, including the preservation and production of data by private sector providers. While a number of modes of informal law enforcement cooperation exist, including “24/7” networks, countries continue to rely heavily on traditional formal judicial means, in particular bilateral mutual legal assistance instruments, to obtain digital evidence.

Response times for mutual legal assistance requests involving the investigation of cybercrime may often fall outside service providers’ data retention periods or may enable perpetrators to permanently destroy key digital evidence. Effective international cooperation in cases involving digital evidence therefore requires mechanisms for the expedited preservation of data pending the consideration of further investigative measures (E/CN.15/2014/12, para. 58).

Article 27, paragraph 3, of the Organized Crime Convention stipulates that “States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.”

In addition, in accordance with article 29, paragraph 1, of the Organized Crime Convention, each State party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by the Convention. Such programmes should deal with, inter alia, topics closely related to the gathering and sharing of electronic evidence, such as (a) collection of evidence; (b) modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations; and (c) methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology.

In the outcome document of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha in April 2015, the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, Member States underlined their effort to explore specific measures designed to create a secure and resilient cyberenvironment, to prevent and counter criminal activities carried out over the Internet, to strengthen law enforcement cooperation at the national and international levels, including with the aim of identifying and protecting victims, to enhance the security of computer networks and protect the integrity of relevant infrastructure, and to endeavour to provide long-term technical assistance and capacity-building to strengthen the ability of national authorities to deal with cybercrime, including the prevention of such crime in all its forms.

For its consideration of this item, the Working Group will have before it a background paper prepared by the Secretariat on gathering and sharing electronic evidence.

### **Documentation**

Background paper prepared by the Secretariat on gathering and sharing electronic evidence (CTOC/COP/WG.3/2015/2)

### **3. Maximizing efficiencies, including the use of liaison officers and police sharing mechanisms**

One of the challenges and obstacles encountered in the field of law enforcement cooperation is the absence of channels of communication, which results in an inability to obtain both operational information (data that would be useful in responding to specific offences and offenders) and general information (for example, data on the forms and the extent of cross-border crime). Article 27 of the Organized Crime Convention calls on States parties to cooperate closely with one another by, inter alia, enhancing and, where necessary, establishing channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by the Convention, strengthening cooperation in conducting inquiries, providing items for analytical and investigative purposes and exchanging information on offenders' *modi operandi* and through the exchange of personnel, including the posting of liaison officers.

The role of liaison officers in law enforcement is to provide a direct contact with the law enforcement and government authorities of the host State, develop professional relationships and foster mutual trust and confidence between the law enforcement agencies of the two States. Although liaison officers do not have any law enforcement powers in the host State, they can nonetheless use their contacts to gather information that may be of benefit in preventing and detecting cross-border offences and in identifying the offenders responsible and bringing them to justice. They serve as a filter, reducing the necessity of bureaucratic procedures when officials of the foreign State are legally able and willing to provide assistance without a formal request. They can also use those contacts to advise the law enforcement and prosecutorial authorities of the host State, as well as their own corresponding authorities, on how to formulate a formal request for assistance. Once

such requests are submitted, the liaison officer can then follow up on the requests in an attempt to ensure that the request is successfully complied with in a timely manner. This is of particular value when the legal systems of the two States differ widely.

In its resolution 7/4, the Conference of the Parties recognized the importance of police cooperation and the exchange of information pursuant to article 27 of the Organized Crime Convention as an important foundation for building criminal prosecutions against crimes involving transnational organized criminal groups.

Similarly, at its meeting held on 8 and 9 October 2014, the Working Group on International Cooperation recommended that States may consider, if needed and feasible, placing liaison magistrates or liaison officers in the capitals of other countries, with a view to enhancing the effectiveness of international cooperation. The recommendations made by the Working Group on International Cooperation at that meeting were endorsed by the Conference of the Parties in its resolution 7/4.

**4. Update by the Secretariat on its tools related to international cooperation, including with regard to the gathering of information on the implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime**

Over the past few years, the United Nations Office on Drugs and Crime (UNODC) has been developing a number of tools to assist Member States in taking action against transnational organized crime, including model legislative provisions, manuals on international cooperation in criminal matters and a knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC) containing organized crime case law and legislation. UNODC has also continued to redevelop existing tools, such as the directory of competent national authorities and the Mutual Legal Assistance Request Writer Tool.

Some of the recommendations made by the Working Group on International Cooperation at its meeting held on 8 and 9 October 2014 and endorsed by the Conference of the Parties at its seventh session, in 2014, provided specific guidance for further work of UNODC in the field of the development of tools to promote international cooperation, as follows: (a) to continue work to collect and disseminate, including through the SHERLOC knowledge management portal, relevant national laws, guidelines and materials that can assist practitioners in the preparation and submission of requests for mutual legal assistance; and (b) to further develop tools for international cooperation in criminal matters, including the Mutual Legal Assistance Request Writer Tool, with a view to supporting central authorities in strengthening communication channels and, as appropriate, in exchanging information at both the regional and international levels.

In this regard, the Conference of the Parties, in its resolution 7/1, invited States parties and, on a voluntary basis, other interested Member States, to provide information on the relevant legislative tools to be included in the SHERLOC knowledge management portal.

Furthermore, in its resolution 7/3, the Conference endorsed the recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held from 28 to 30 October 2013, in particular the recommendation that the Secretariat, subject to the availability of extrabudgetary resources, should

continue the development of technical assistance tools, for the Convention and the Protocols thereto and on specialized issues, including mutual legal assistance and extradition. In particular, it was recommended that the Secretariat should continue to work on the SHERLOC knowledge management portal, building on the work accomplished in the development of the digest of organized crime cases.

In its resolution 7/4, the Conference recalled its decision 2/2, in which it requested the Secretariat to develop and maintain a directory of central authorities dealing with requests pertaining to mutual legal assistance, extradition and transfer of sentenced persons. The Conference also acknowledged the efforts made by UNODC to further strengthen international cooperation tools, including the directory of central authorities and the Mutual Legal Assistance Request Writer Tool.

Under this item, the Secretariat will deliver presentations on its tools related to international cooperation.

#### **5. Use of the United Nations Convention against Transnational Organized Crime as a legal basis for international cooperation against all forms of transnational organized crime**

In its resolution 55/25 of 15 November 2000, through which the Organized Crime Convention and its two supplementary protocols against trafficking in persons and the smuggling of migrants were adopted, the General Assembly expressed its strong conviction that the Organized Crime Convention would constitute an effective tool and the necessary legal framework for international cooperation in combating, inter alia, such criminal activities as money-laundering, corruption, illicit trafficking in endangered species of wild flora and fauna, offences against cultural heritage and the growing links between transnational organized crime and terrorist crimes.

In its resolution 5/1, the Conference noted with concern the emergence, in the previous decade, of new forms and dimensions of transnational organized crime, as it had already noted in its decision 4/2, in which it had been emphasized that the Convention, as a global instrument with wide adherence, offered the broadest scope of cooperation to address existing and emerging forms of transnational organized crime. Also in that resolution, the Conference decided to continue to exchange information on experience and practices on the application of the Convention to new forms and dimensions of transnational organized crime.

At its fifth session, the Conference of the Parties also considered the issue of the use of the Organized Crime Convention for protection against trafficking in cultural property (see CTOC/COP/2010/12).

As stated in the Doha Declaration, Member States endeavour to strengthen international cooperation as a cornerstone of their efforts to enhance crime prevention and ensure that their criminal justice systems are effective, fair, humane and accountable, and ultimately to prevent and counter all crimes. The Doha Declaration also encourages States parties to implement and make more effective use of, inter alia, the Organized Crime Convention and the Protocols thereto.

For its consideration of this item, the Working Group will have before it a background paper prepared by the Secretariat on the use of the United Nations Convention against Transnational Organized Crime as a legal basis for international cooperation against all forms of transnational organized crime.

**Documentation**

Background paper prepared by the Secretariat on the use of the United Nations Convention against Transnational Organized Crime as a legal basis for international cooperation against all forms of transnational organized crime (CTOC/COP/WG.3/2015/3)

**6. Other matters**

As no issues to be raised under item 6 have come to the attention of the Secretariat, no documentation regarding this item is currently foreseen.

**7. Adoption of the report**

The Working Group will adopt a report on its meeting, the draft of which will be prepared by the Secretariat.

## Annex

### Proposed organization of work

<i>Date and time</i>	<i>Agenda item</i>	<i>Title or description</i>
<b>Tuesday, 27 October</b>		
10 a.m.-1 p.m.	1 (a)	Opening of the meeting
	1 (b)	Adoption of the agenda and organization of work
	2	Gathering and sharing electronic evidence
3-6 p.m.	3	Maximizing efficiencies, including the use of liaison officers and police sharing mechanisms
<b>Wednesday, 28 October</b>		
10 a.m.-1 p.m.	4	Update by the Secretariat on its tools related to international cooperation, including with regard to the gathering of information on the implementation of the international cooperation provisions of the United Nations Convention against Transnational Organized Crime
3-6 p.m.	5	Use of the United Nations Convention against Transnational Organized Crime as a legal basis for international cooperation against all forms of transnational organized crime
	6	Other matters
	7	Adoption of the report