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Thematic discussion on promoting international cooperation and technical assistance to prevent and address organized crime, corruption, terrorism in all its forms and manifestations and other forms of crime, including in the areas of extradition, mutual legal assistance and asset recovery

Guide for the thematic discussion on promoting international cooperation and technical assistance to prevent and address organized crime, corruption, terrorism in all its forms and manifestations and other forms of crime, including in the areas of extradition, mutual legal assistance and asset recovery

Note by the Secretariat

Summary

In its decision 2022/317, the Economic and Social Council decided that the theme for the thirty-third session of the Commission on Crime Prevention and Criminal Justice would be “Promoting international cooperation and technical assistance to prevent and address organized crime, corruption, terrorism in all its forms and manifestations and other forms of crime, including in the areas of extradition, mutual legal assistance and asset recovery”.

The present discussion guide analyses different forms of international cooperation in criminal matters and describes developments, trends, challenges and good practices related to legal and operational aspects of such cooperation. It also outlines possible responses to challenges encountered in the field of international cooperation in criminal matters and raises questions and issues that the Commission may wish to discuss. It has been prepared by the Secretariat pursuant to Commission decision 18/1, in which the Commission established guidelines for its thematic discussions, including the discussion guide.

* E/CN.15/2024/1.



I. Introduction

1. Ten years ago, in 2014, the prominent theme for the twenty-third session of the Commission was “International cooperation in criminal matters”, bearing in mind paragraph 21 of the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World.¹ In that paragraph of the Salvador Declaration, Member States acknowledged that gaps might exist in relation to international cooperation in criminal matters and invited the Commission on Crime Prevention and Criminal Justice to consider reviewing the issue and explore the need for various means of addressing gaps that were identified.² Among the salient points of the Chair’s summary of the thematic discussion was the need to improve the implementation of multilateral instruments at the national level,³ as well as the importance of considering all forms of international cooperation to require mutual understanding and trust, and of applying them in a flexible and innovative manner.⁴

2. Ten years after that debate, the Commission has been asked to again devote its attention to the important topic of international cooperation in criminal matters. The thematic discussion at its thirty-third session offers an opportunity to take stock of more recent developments, especially in an era defined by unprecedented technological advancements and new and emerging challenges posed by organized crime, corruption and terrorism that demand innovative and collaborative solutions. It will also be an occasion to draw lessons learned from knowledge and experience accumulated over the last decade in various United Nations forums and intergovernmental processes in the field of crime prevention and criminal justice.

3. The Working Group on International Cooperation of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, for example, has been a platform for the exchange of views and experience among practitioners. It has generated recommendations for consideration and adoption by the Conference of the Parties, further advancing the effective implementation of the international cooperation provisions of the Organized Crime Convention. Furthermore, the Mechanism for the Review of Implementation of the United Nations Convention against Corruption focused in its first cycle on, *inter alia*, the review of implementation of chapter IV (International cooperation) of the Convention. It enabled the mapping of national approaches to international cooperation and the development of cumulative knowledge of obstacles to cooperation and practical means of overcoming them. Moreover, the most recent United Nations congresses on crime prevention and criminal justice have reiterated the importance of international cooperation to combat all forms of crime and offered further opportunities to discuss legal and practical considerations to foster such cooperation.⁵

4. Against that background, the thematic discussion to be held at the thirty-third session of the Commission will serve as a platform for further discussion on challenges encountered, as well as the potential for increased efforts to expand and deepen international cooperation as a response to transnational organized crime, corruption, terrorism in all its forms and manifestations and other forms of crime. To facilitate this important debate, the present discussion guide covers eight thematic areas relevant to international cooperation in criminal matters, which are considered and analysed below, together with an indicative list of questions or points for further discussion.

¹ See the discussion guide for the thematic discussion on international cooperation in criminal matters ([E/CN.15/2014/12](#)).

² General Assembly resolution 65/230, annex, para. 21.

³ See [E/2014/30-E/CN.15/2014/20](#), chap. III, sect. A, para. 29.

⁴ *Ibid.*, chap. III, sect. A, para. 32.

⁵ See, for example, the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development, pillar IV (General Assembly resolution 76/181, annex).

II. Thematic areas: issues for discussion

A. Legal bases for promoting international cooperation

5. For international cooperation practitioners, the legal basis employed, including the terms of the relevant bilateral or multilateral instrument, can have a significant impact on the success of individual requests for cooperation. Even where a State is able to provide assistance without a treaty, reliance on the agreed terms of a bilateral or multilateral instrument can assist in bridging diverse legal traditions and cultures and national differences in procedural law. In addition, the existence of legal rights and obligations within the bilateral or multilateral instrument provides a clear framework governing the manner in which the requested State should respond to requests.⁶

6. The provisions of multilateral conventions such as the Organized Crime Convention and the Convention against Corruption can play a key role in harmonizing obligations and addressing legal gaps in the field of international cooperation in criminal matters. In practice, the Organized Crime Convention, in particular, has been used as a legal basis for international cooperation by States parties around the world, albeit far more frequently by some States than others.⁷ Moreover, the Convention against Corruption has been reported to be used as a legal basis much more extensively for purposes of mutual legal assistance than extradition.⁸

7. A major advantage of the Organized Crime Convention, the Convention against Corruption, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and key counter-terrorism conventions is their near universality, with States parties located around the world, whereas regional agreements have by their very nature a limited number of States parties. While bilateral treaties may reflect specific issues of bilateral concern, they may also result in a fragmented, rather than integrated, approach to combating different forms of crime.

8. In general, the relationship between, for example, the Organized Crime Convention and other agreements should be seen as complementary and not as competitive. Indeed, it is a welcome development that the Convention has been used jointly with a range of other treaties in order to give international cooperation, including extradition and mutual legal assistance, a stronger legal basis.⁹ It would be valuable to explore the criteria by which States parties choose their legal basis for cooperation, the circumstances in which they choose one of multiple possible legal bases and the circumstances in which they opt for a combination of them.

9. It should be emphasized that the concept of “serious crime”, as defined in article 2, subparagraph (b), of the Organized Crime Convention, allows for the use of the Convention as a legal basis for international cooperation in relation to forms of transnational organized crime that meet the requirements of the definition contained in that provision of the Convention. This is relevant, *inter alia*, to crimes that affect the environment¹⁰ or trafficking in cultural property.

Questions for consideration

10. The Commission may wish to consider the following points for further discussion:

(a) What challenges are encountered in establishing means for collecting statistical data that make it possible to assess and strengthen the implementation of the Organized Crime Convention and the Convention against Corruption, including, in particular, data on their use as legal bases for international cooperation?

⁶ A/CONF.222/7, para. 5.

⁷ See United Nations Office on Drugs and Crime (UNODC) *Digest of Cases of International Cooperation in Criminal Matters Involving the United Nations Convention against Transnational Organized Crime as a Legal Basis* (Vienna, 2021), p. 121.

⁸ CAC/COSP/EG.1/2021/3.

⁹ See UNODC, *Digest of Cases of International Cooperation in Criminal Matters*, pp. 96 ff.

¹⁰ CTOC/COP/WG.2/2022/3-CTOC/COP/WG.3/2022/3, para. 55.

(b) What obstacles are hindering the possibility of using the relevant multilateral conventions more actively for purposes of international cooperation?

(c) How can international frameworks and legislative bodies adapt swiftly to the rapid advancements in technology, ensuring that legal frameworks can promptly identify and address emerging challenges, especially in the context of combating organized crime and terrorism? Considering the rapid pace of technological growth and the agility of criminal organizations, how can legislation keep pace in order to effectively regulate and mitigate the exploitation of technological advancements for illicit activities without causing undue delays in the legal response?

B. Bringing offenders to justice: developments in the field of extradition

11. Trends and developments in extradition law and practice have focused on, inter alia, simplifying requirements with respect to the examination and assessment of the extradition request and the process followed for the surrender of the person sought. Simplification appears to be taking place in two areas. Firstly, there is simplification of the substantive and procedural conditions for extradition through the relaxing – by means of increased flexibility in application – of the following elements: (a) the strict application of certain grounds for refusal of extradition requests, including nationality of the offender and the political offence exception to extradition; (b) extradition conditions such as dual criminality and the rule of specialty; and (c) specific evidentiary requirements applicable in the extradition process. The second area focuses on “fast track” extradition procedures through the consistent practice of providing for a streamlined process of extradition (simplified extradition) as an option, subject to certain requirements and on the understanding that the person sought consents to such a simplified process.¹¹

12. The simplification of the extradition procedure and the expansion of the rights of the person subject to that procedure have been occurring simultaneously. The expansion of the human rights dimension in extradition appears to be linked to closer scrutiny of the requesting State’s criminal justice system. However, there are still contrasting views on the exact parameters of human rights in the extradition process, the validity of assurances and whether scrutiny should be a judicial or executive task.¹²

13. With regard to corruption, most States parties regulate extradition in their domestic legal systems, but with varying levels of detail. The majority of States parties explicitly set out the dual criminality requirement, although its application depends to a large extent on the specificities of the legal system and constitutional principles.¹³

14. Where the dual criminality requirement needs to be met, it seems to be fulfilled in most cases regardless of the terminology used to denominate the offence in question. Thus, requested States need only establish that conduct equivalent to the conduct for which extradition is sought is criminalized in their domestic law. This “conduct-based” concept is considered to be a good practice, although it is provided for only in the Convention against Corruption (art. 43, para. 2), and not in the Organized Crime Convention.¹⁴

15. Consultations between the requested and requesting States could play a facilitating role at different stages of the extradition proceedings. Such consultations refer to communications regarding the applicable legal requirements, as well as any potential problems with the extradition request, and offer the opportunity for the

¹¹ CTOC/COP/WG.3/2018/5, para. 8.

¹² Ibid., para. 39.

¹³ UNODC, *State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation*, 2nd ed. (Vienna, 2017), p. 199.

¹⁴ CTOC/COP/WG.3/2023/4, paras. 4 (p) and 41.

provision of additional information or evidence to substantiate the case or strengthen the assurances needed after a potential surrender of the fugitive, as appropriate.¹⁵

Questions for consideration

16. The Commission may wish to consider the following points for further discussion:

(a) What experiences, practical cases and good practices exist in relation to the expediting of extradition proceedings and the simplification of evidentiary requirements?

(b) What experience have countries had in interpreting and applying the dual criminality requirement in extradition proceedings?

(c) How are gaps in domestic legal frameworks addressed to ensure that extradition is granted even if not all offences in the extradition request are extraditable by virtue of their minimum period of imprisonment?

(d) How is the need for urgency in the processing of an extradition request balanced with human rights considerations in extradition proceedings?

(e) Have there been any initiatives in Member States to trigger internal reviews for possible reform of their extradition regimes and for streamlining their extradition practice?

(f) Have there been cases or practical examples of assessment of the impact of consultations between requested and requesting States at different stages of extradition proceedings?

C. Supporting criminal justice proceedings: developments in the field of mutual legal assistance

17. Developments in recent years in the field of mutual legal assistance continue to shed light on the pivotal role of central authorities in facilitating direct communication with counterparts in the cooperating State and in ensuring effective coordination with executing authorities domestically in the requested State. Data from the Implementation Review Mechanism of the Convention against Corruption, in particular, show that almost all States parties have designated central authorities and the number is constantly growing.¹⁶

18. While the establishment of a central authority may be the result of a government policy, there seems to be a trend towards providing a legal basis for central authorities through government decrees or regulations. Those provide clarity regarding functional competence, procedures, institutional requirements, standardized criteria and better implementation of the international cooperation provisions of multilateral conventions.

19. For some central authorities, functional competences are defined in relation to the applicable international instrument and the type of proceedings (pretrial or trial proceedings). An emerging trend is to include the exercise of quality control over incoming and outgoing requests in the responsibilities of central authorities. An additional and increasingly important role for central authorities is to provide advisory services to competent authorities domestically and foreign authorities internationally. Moreover, the central authority, as a possible single focal point for incoming and outgoing requests, may act as a key collector and provider of statistical information on the type of assistance requested, as well as the legal basis employed.

20. Case management systems in central authorities are essential for providing an overview of the efficiency and effectiveness of the handling of requests. They may reflect advancements or shortcomings in the entire criminal justice system of a Member

¹⁵ CTOC/COP/WG.3/2018/2, para. 9.

¹⁶ Conference room paper on competent national authorities designated under the United Nations Convention against Corruption (as at 1 December 2023) (CAC/COSP/2023/CRP.2).

State. In many countries where records continue to be kept in hard copies, searching those records and providing the relevant documents to a requesting country can be a daunting task. In countries at the other end of the spectrum, modern technology permits the use of electronic platforms for the management of incoming and outgoing mutual legal assistance requests or the compilation of statistical data on cases and trends.¹⁷

21. Videoconferencing has also emerged in the field of mutual legal assistance as a valuable time- and cost-saving tool for providing viva voce evidence in cases where it is impossible or undesirable for a witness to travel.¹⁸ Its use is permissible in the majority of States and was given further impetus during the coronavirus disease (COVID-19) pandemic.

22. Furthermore, the United Nations Office on Drugs and Crime (UNODC) has been actively supporting intergovernmental processes in which international cooperation involving electronic evidence has emerged as a policy and legal priority. Examples of such processes include the work of the Expert Group to Conduct a Comprehensive Study on Cybercrime; the work of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes; two thematic discussions of the Commission in 2018 and 2022; and pertinent work of the Working Group on International Cooperation of the Conference of the Parties to the Organized Crime Convention.

23. UNODC developed an amended version of its Model Law on Mutual Assistance in Criminal Matters in 2022, containing additional provisions on electronic evidence and the use of special investigative techniques, and launched the International Cooperation and Electronic Evidence i-Campus learning platform.

Questions for consideration

24. The Commission may wish to consider the following points for further discussion:

(a) What measures have been taken to strengthen the capacity of central authorities to receive, prioritize and process mutual legal assistance requests?

(b) What measures are in place to enhance coordination among central and other competent authorities and to streamline the handling of requests?

(c) What challenges are commonly faced in mutual legal assistance involving electronic evidence, specifically in terms of ensuring the admissibility of the evidence at trial, and how can those challenges be effectively mitigated?

(d) How could a global repository of digital forensic tools benefit international efforts to address organized crime, corruption and terrorism, and what challenges might arise in establishing and maintaining it?

(e) The existing models and international guidelines for evidence preservation and custody in the digital realm can be critical for ensuring the admissibility of electronic evidence in court proceedings. What challenges and complexities might arise in their implementation? Is there a need for standardized procedures in mutual legal assistance to streamline the collection, preservation and admissibility of digital evidence?

D. Increasing the efficiency of law enforcement cooperation and border management to ensure successful investigations and prosecutions

25. In an increasingly interconnected world, criminal actors and networks have become adept at exploiting borders and jurisdictional gaps, posing a significant threat

¹⁷ A/CONF.234/11, para. 66.

¹⁸ See article 18, paragraph 18, of the Organized Crime Convention; and article 46, paragraph 18, of the Convention against Corruption. At the regional level, see article 9 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

to global security. The imperative to disrupt their activities demands a collaborative and synergistic approach among nations.

26. Globalization and technological advancements have facilitated the seamless movement of criminals and illicit activities across borders. In addition, considering the evolving nature of the transnational threat of terrorism, with the unprecedented number and movement of foreign terrorist fighters and the growing links of terrorism with organized crime, the ability of Member States to provide prompt assistance to one another is crucial in order to effectively address that menace. In that respect, the development of, and participation in, law enforcement multilateral task forces or cooperation platforms are advantageous for expediting regional and cross-regional cooperation, fostering harmonized practices and responses, sharing knowledge and resources, facilitating the exchange of information and evidence and enhancing inter-institutional coordination in respect of terrorism- and organized crime-related cases. Such effective cooperation is relevant to all forms of crime and has also been discussed by various working groups, such as the Working Group on Firearms.¹⁹

27. Another area in which law enforcement cooperation is of utmost importance is firearms trafficking. Its investigation often requires the cooperation of authorities in one or more countries in order to gather relevant evidence and information on the movement of firearms for their tracing and for the identification of persons involved in the trafficking chain across different jurisdictions. Law enforcement cooperation has yielded particularly good results, where requests for cooperation from one country have led to the opening of parallel or joint investigations in the requested country.

28. In order to target transnational crime and dismantle criminal networks, it is crucial to overcome various challenges encountered in the process of obtaining evidence from other countries. For example, because of the diversity of legal systems, investigative techniques that have proved useful in one State may not be allowed in another. This applies to, inter alia, such techniques as electronic surveillance, controlled delivery, undercover operations, the promise of immunity from prosecution or a reduced sentence in return for cooperation in an investigation and the use of anonymous witnesses. The diversity of legal approaches may also have an impact on the admissibility in court of the evidence obtained through such techniques, even if the evidence has been obtained legally in another jurisdiction.²⁰

29. Moreover, the exchange of financial information at the international level is affected by the different statuses of financial intelligence units and the variation in their competencies. In general, national differences in information collection, analysis and dissemination reflect diversity in the use and purposes of financial intelligence, as well as the roles, powers and responsibilities associated with financial intelligence units.²¹

30. The above – indicative – challenges demonstrate that the plethora of bilateral and multilateral instruments, and thus the availability of multiple provisions on international law enforcement cooperation, are not a panacea for overcoming problems and difficulties encountered in daily practice. Instead, States should focus on considering ways and means of increasing the efficiency and effectiveness of law enforcement cooperation mechanisms, while also paying particular attention to cooperation in the areas of victim support and witness protection, especially in cases involving trafficking in persons and the smuggling of migrants.

31. Moreover, robust border control measures act as the first line of defence against criminal infiltration. The use of advanced technologies, such as biometrics and artificial intelligence, enhances the ability to detect and apprehend criminals at border crossings. Integrated databases and information-sharing platforms streamline border control operations, ensuring swift and informed decision-making.

¹⁹ CTOC/COP/WG.6/2023/2.

²⁰ CTOC/COP/WG.3/2023/2, para. 48.

²¹ Ibid., para. 50.

32. UNODC takes a comprehensive approach to strengthening cross-border cooperation and works with law enforcement agencies, prosecutors and wildlife and other relevant authorities around the world. Through training, the establishment of operational law enforcement units and the facilitation of information-sharing, the Office enhances partners' technical knowledge and contributes to an improved international response to transnational crime.

33. Strategic partnerships facilitate resource- and knowledge-sharing, prevent duplication of efforts and can maximize impact. UNODC supports improved law enforcement cooperation through the delivery of technical assistance in cooperation with partners such as the International Criminal Police Organization (INTERPOL) or groups of partners such as the International Consortium on Combating Wildlife Crime.

34. Information compiled through the Implementation Review Mechanism of the Convention against Corruption, for example, shows that channels of communication between competent anti-corruption authorities and services are more common at the regional level, under the regulatory frameworks of regional international organizations, than internationally, where they remain scarce. In the context of regional cooperation, tools such as secure databases for the sharing of information among law enforcement authorities have been developed. Some States parties cooperate through the exchange of personnel, such as the posting of police liaison officers to other countries or international organizations and participation in joint training activities with international counterparts.

35. To address the above-mentioned gap in international cooperation, the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network)²² was created. As at January 2024, it had 193 members from 108 States parties to the Convention against Corruption. The Network enhances connections through the GlobE member directory, plenary meetings and regional initiatives. Moreover, collaboration is strengthened through bilateral meetings, case resolution support, partnerships and a secure communication platform for the sharing of case-related information. For further information on regional and global networks, see section F below.

Questions for consideration

36. The Commission may wish to consider the following points for further discussion:

(a) What good practices exist in the area of international cooperation in criminal matters to boost border management and law enforcement action against organized criminal groups?

(b) What challenges exist in relation to timely and effective international cooperation in border management?

(c) What strategies and legal models can be implemented to ensure that electronic data, specifically basic subscriber information and metadata, transferred through police-to-police cooperation networks are legally admissible in courts?

(d) In evaluating the effectiveness of real-time information-sharing platforms and mechanisms, what lessons can be learned and applied to enhance coordination among law enforcement authorities?

(e) How can law enforcement cooperation protect and preserve the rights of victims of organized crime across borders?

(f) Are there specific types of crime in relation to which joint investigative teams are more successful? If so, which ones and what lessons can be learned and applied for other types of crime?

(g) What are the difficulties in establishing inter-agency coordination and effective channels of communication among competent law enforcement authorities?

²² Available at <https://globenetwork.unodc.org/>.

(h) How have networks such as the GlobE Network assisted national law enforcement authorities in case-related operational cooperation?

(i) What challenges are encountered in the field of law enforcement cooperation when developing responses to offences committed through the use of modern technologies?

E. Targeting the proceeds of crime

37. In the first stages of an investigation and during the collection of information and intelligence, the assistance requested may be of an informal nature. However, mutual legal assistance is typically required in cases where the measures requested involve the use of coercive powers by the requested State, such as the power to compel the production of bank account transaction details or search and seizure orders.

38. Practitioners may find it challenging to obtain a domestic confiscation order in the requested State or achieve the direct recognition and enforcement of a foreign confiscation order pursuant to a mutual legal assistance request. For example, despite the relevant provisions of multilateral instruments such as the Organized Crime Convention and the Convention against Corruption, there remain considerable differences in the domestic regimes of cooperating States. In addition, the concepts involved in such international cooperation are relatively new and tend to be unfamiliar to the authorities involved, thus causing problems and difficulties in practice. Other obstacles of a legal, institutional and operational nature that may impede effective cooperation for purposes of confiscation include a lack of mutual trust; failure to comply with requirements set forth in multilateral or bilateral instruments; weaknesses in preventing money-laundering; lack of clarity regarding focal points and lack of effective coordination; and lack of resources.²³

39. In recent years, efforts to trace and restrain stolen assets across borders have become significantly more widespread, with, for example, a marked increase in examples of completed returns of corruption proceeds between 2017 and 2021.²⁴ Although many challenges remain throughout the recovery and return process, new data show that the prolonged visibility of the topic of asset recovery in the international community has spurred countries into action. While the final destinations of proceeds of crime are often the largest regional or global financial centres, survey data show a diversification in destination countries for assets stolen by corrupt public officials.

40. Building on the 2021 review of asset recovery progress presented in the *Financing for Sustainable Development Report 2022*, and in cooperation with the Stolen Asset Recovery (StAR) Initiative, UNODC produced a paper on mapping international recoveries and returns of stolen assets under the United Nations Convention against Corruption, which analysed international returns of proceeds of corruption that were carried out between 2010 and 2023. The analysis was submitted to the Conference of the States Parties to the Convention at its tenth session, in December 2023, and represents the largest systematic effort to date to collect information on international asset recovery efforts related to corruption offences directly from national authorities.²⁵

41. The StAR Initiative's Asset Recovery Watch database was launched in 2023. It is the only database in the world that collects and systematizes information about asset recovery and return, building on the information gathered by UNODC through the aforementioned data-collection project.

42. Conviction-based criminal forfeiture remains the most frequently cited legal mechanism for cross-border asset recovery and is used in just over half of all reported cases, followed by non-conviction-based confiscation and settlements. With a growing

²³ CTOC/COP/WG.3/2016/3, paras. 26–42.

²⁴ CAC/COSP/2023/15.

²⁵ *Financing for Sustainable Development Report 2023: Financing Sustainable Transformations* (United Nations publication, 2023).

number of States involved in cross-border asset recovery, the recognition and enforcement of foreign judgments and confiscation orders are becoming vital to avoid duplication of law enforcement efforts.

43. Work to combat money-laundering and the financing of terrorism and to confiscate and recover the proceeds of crime remains a critical priority to address crime and strengthen peace and sustainable development. With only six years to go before 2030, Member States are accelerating their efforts, including through bodies such as the Financial Action Task Force (FATF), INTERPOL and the Egmont Group of Financial Intelligence Units. Through FATF,²⁶ Member States' experts have worked to enhance policy at the level of the FATF recommendations related to asset recovery and the transparency of beneficial ownership.

44. The Global Action against Trafficking in Persons and the Smuggling of Migrants – Asia and the Middle East project published the *Study on Illicit Financial Flows Associated with Smuggling of Migrants and Trafficking in Persons from GLO.ACT Partner Countries to Europe* in October 2023. The study underscores the role of technology in facilitating such crimes and managing illicit proceeds. Understanding the financial dynamics allows Governments to better identify, respond to and trace illicit financial flows, which is crucial for disrupting criminal networks.

Questions for consideration

45. The Commission may wish to consider the following points for further discussion:

(a) What are the main legal and practical barriers to asset recovery that national authorities encounter?

(b) Have measures been taken at the national level to expedite asset recovery procedures?

(c) What challenges are encountered in relation to the enforcement of non-conviction-based confiscation orders issued in foreign jurisdictions?

(d) Are there national mechanisms in place to track and collect data on successful asset recovery and return, including on volumes of assets frozen, seized, confiscated and returned in relation to corruption and other offences?

(e) What lessons have been learned from developments in asset recovery procedures, with a focus on the role of advanced technologies such as blockchain and data analytics in enhancing the traceability and confiscation of illicitly acquired assets?

(f) How do international financial institutions and regulatory bodies contribute to implementing measures for the prevention of illicit financial flows that support terrorism? In understanding the challenges and benefits associated with the adoption of standardized approaches to asset recovery procedures, how can efficiency be enhanced and what role do financial intelligence units play in that process?

(g) Has experience been accumulated in how to target the proceeds of crime when money is not being transferred through formal banking institutions but through, for example, hawala and cryptocurrencies?

F. New elements of intergovernmental cooperation involving private sector entities

46. In recent years, online intermediaries have expanded the services they offer, depending on their respective functions. Such intermediaries include Internet access providers, hosting service providers, social media service providers, cloud storage

²⁶ FATF adopted its revisions to recommendations 4, 30, 31, 38 and 40 pertaining to the confiscation and recovery of the proceeds of crime in November 2023 (Financial Action Task Force, "Amendments to the FATF standards to strengthen global asset recovery", 16 November 2023).

and cloud software providers, payment service providers, cryptocurrency providers, search engine providers, domain name registrars and instant messaging service providers. Understanding their functions and how those functions can be misused by criminals is essential for developing effective policies to address serious crimes committed online, such as wildlife crime, crime related to falsified medical products and trafficking in cultural property.²⁷

47. The securing of electronic evidence located in another jurisdiction or on cloud-based servers poses challenges owing to the volatile nature of such evidence, which makes timely responses, including the preservation and production of data by communication service providers, and the ability to request specialized investigative action extremely important. The thematic discussion of the Commission at its thirty-first session, in 2022, included that important topic. One challenge commonly encountered when requesting such data from another jurisdiction is delays in the response that often exceed the data retention period and may enable perpetrators to permanently destroy key electronic evidence. For that reason, it is of paramount importance to forge effective partnerships between communication service providers and law enforcement agencies.²⁸

48. Although an increased number of communication service providers have issued guidelines for law enforcement and judicial authorities aimed at clarifying the requirements and processes for the submission of requests for disclosure of electronic evidence, authorities should bear in mind that service providers have different procedures, and some have no procedures at all. The capacity of law enforcement authorities to cooperate with communication service providers located overseas in accordance with applicable laws and their own requirements remains a challenge, in particular in cross-border investigations where different legal frameworks may overlap or offer different approaches.

49. Article 39 of the Convention against Corruption, for example, requires States parties to foster a cooperative relationship between their investigating and prosecuting authorities and the private sector in matters pertaining to corruption offences. The measures cited by States parties under this article are most often related to financial institutions – one of the main target areas of article 39, paragraph 1 – and often focus on money-laundering. They concern to a large extent the activities of national financial intelligence units, as well as the obligation of a series of reporting entities in the private sector specified in money-laundering legislation (such as banks, credit institutions, financial houses, stock agents, futures and options brokers, exchange bureaux, insurance companies, notaries, law firms and auditing firms) to take due diligence measures, inform the respective financial intelligence unit (or, in some cases, the public prosecutor) of any suspicious fact or transaction for the purposes of detecting criminal offences, and provide information and documents to authorized officers upon request.²⁹ In the field of mutual legal assistance, in particular, several countries reported under the Implementation Review Mechanism of the Convention against Corruption that they regularly provided requesting States with information obtained from financial institutions. Very often, access to bank records has to be duly authorized by judicial or other competent authorities in the requested State.³⁰

50. Furthermore, payment modalities have evolved enormously in recent years, increasing the number of decentralized financial systems in which risk-based anti-money-laundering standards are yet to be implemented. In order to address illicit flows of money, FATF standards need to be applied to all financial entities, including to virtual asset service providers. According to the Interpretative Note to FATF Recommendation 15 (New technologies), countries should apply the relevant measures under the FATF recommendations to virtual assets and virtual asset service providers.

²⁷ UNODC, *Issue Paper on Policymaking and the Role of Online Intermediaries in Preventing and Combating Illicit Trafficking*, (Vienna, 2021), p. 16.

²⁸ E/CN.15/2022/6.

²⁹ UNODC, *State of Implementation of the United Nations Convention against Corruption*, p. 180.

³⁰ Ibid., p. 229.

In particular, supervisors of virtual asset service providers should exchange information promptly and constructively with their foreign counterparts, regardless of the supervisors' nature or status and differences in the nomenclature or status of virtual asset service providers.³¹

51. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, extends the cooperation requirements beyond international cooperation to cooperation with private sector entities. Pursuant to article 13, paragraph 3, of the Firearms Protocol, States Parties must seek the support and cooperation of manufacturers, dealers, importers, exporters, brokers and commercial carriers of firearms, their parts and components and ammunition to prevent and detect the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. The Conference of the Parties to the Organized Crime Convention has repeatedly urged States to facilitate the exchange of information and cooperation with the private sector in order to better address new challenges, trends and patterns related to those crimes. Furthermore, the Conference has urged States parties to provide specialized training to relevant private sector actors such as transporters and postal and package delivery services in order to prevent trafficking in firearms and firearm parts in parcels.

52. UNODC, through its Global Firearms Programme, supports Western Balkan jurisdictions in countering trafficking in firearms, their parts and ammunition in express courier and postal parcels. Through its Hermes project, UNODC facilitates cooperation between customs and express courier companies and law enforcement and prosecutorial services. In cooperation with the European Multidisciplinary Platform Against Criminal Threats, UNODC has also launched a joint operation with Latin American countries aimed at disrupting trafficking in firearms and ammunition through postal and fast parcel services (Operation Armstrong).

53. The Office also works with a range of private sector actors, including the World Shipping Council and sector-leading shipping lines, aviation companies and intellectual property rights owners. Such partnerships are aimed at promoting cooperation, ensuring supply chain security and minimizing unnecessary infringements on legitimate trade at seaports, airports and land border crossings in order to effectively counter cross-border illicit trade. UNODC also encourages Member States to establish partnerships and links with private sector entities and promotes effective private sector cooperation by building on the experience and resource strategies of their partners.

Questions for consideration

54. The Commission may wish to consider the following points for further discussion:

(a) How can the integration of artificial intelligence and machine learning into financial technology (fintech) applications enhance the capabilities of financial institutions and regulatory bodies? What regulatory and legal frameworks are necessary to implement these fintech solutions responsibly and ethically, ensuring efficiency in combating the financing of terrorism while upholding privacy and security considerations?

(b) How can public-private partnerships in financial investigations be strengthened, encouraging voluntary information-sharing between Governments and financial institutions while ensuring compliance with data protection and privacy regulations?

(c) How can public-private partnerships contribute to better results in the area of international cooperation, in particular to combat organized crime, money-laundering and fraud?

³¹ FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations* (Paris, 2023), pp. 76 and 77.

(d) In exploring the benefits of public-private partnerships in asset recovery efforts, what mechanisms can be established to motivate private entities to engage in asset recovery? Are there examples of successful public-private partnerships in this context, and how can these partnerships be scaled up or replicated for broader impact?

(e) While executing more proactive roles and being increasingly engaged in choices between conflicting rights and freedoms, communication service providers may be compelled – de jure or de facto – to make value judgments as law enforcers and adjudicators, a function that traditionally belongs to public authorities. Is this a mere “outsourcing” by law enforcement to private parties, or something more? And how does this affect the efficiency of cooperation between communication service providers and law enforcement authorities and the safeguarding of the rights of affected persons?

G. The added value of regional and global cooperation networks

55. One of the most effective means of facilitating international cooperation is through regional and international coordination mechanisms and networks. At the operational level, such cooperation arrangements may include the designation of international cooperation focal points, the communication of national requirements and procedures for cooperation, and the creation of secure communication channels or platforms and mechanisms for handling cases and sharing experiences between authorities of participating States. They may focus on the facilitation of formal judicial cooperation and informal law enforcement cooperation and intelligence-sharing. The activities are not necessarily dependent upon a treaty basis and may be carried out alongside or in the absence of regional cooperation treaties.

56. In general, cooperation networks can play a significant role in transnational or regional approaches to criminal investigations. Such networks enhance personal contacts, build mutual trust between practitioners and are conducive to forming a better understanding of the respective networks’ legal, procedural and operational requirements.

57. UNODC, as a global facilitator of international cooperation in criminal matters, currently supports several regional judicial cooperation networks, including the Network of West African Central Authorities and Prosecutors against Organized Crime, the Network of Prosecutors and Central Authorities from Source, Transit and Destination Countries in response to Transnational Organized Crime in Central Asia and Southern Caucasus and the South East Asia Justice Network.

58. Specialized networks of firearms experts and criminal justice practitioners entrusted with combating firearms trafficking can facilitate and support the exchange of expertise related to the effective investigation and prosecution of firearms crime. Such networks can be established at the regional level, such as the Working Group on Firearms and Ammunition of the Southern Common Market, the South East Europe Firearms Experts Network, the European Firearms Experts Steering Committee and (not limited to firearms crime) the European Multidisciplinary Platform Against Criminal Threats. At the global level, the UNODC Community of Practitioners against Firearms Trafficking and Related Crimes³² brings together firearms experts and criminal justice practitioners from various countries and regions to promote the interregional exchange of expertise, facilitate cooperation and information exchange and establish channels of communication across jurisdictions to discuss ongoing investigations.

59. In 2023, following a prior collaborative regional exchange among selected non-governmental organizations from Latin America and the Caribbean, which was facilitated by UNODC and the Office of the United Nations High Commissioner for Human Rights, a regional network of civil society organizations advocating for victims of trafficking in persons in criminal proceedings was established. Since then,

³² Available at www.unodc.org/unodc/en/firearms-protocol/community-of-practitioners.html.

UNODC has actively collaborated with the network, known as RED-LACTRA. The network serves as a platform for sharing information and fostering collaborative efforts among civil society organizations, with the primary goal of fortifying victims' access to justice in cases of trafficking in persons across Latin America and the Caribbean through legal counselling and representation.

60. UNODC also increasingly supports networks for women, such as the Women in Maritime Law Enforcement Forum and the Africa Women in Cyber (AWIC) networking group, to promote specialized training, networking and international cooperation while fostering female empowerment. The AWIC networking group currently has 343 participants from 38 countries, who meet online on a regular basis and produce a newsletter.³³ The Office also supports the asset recovery inter-agency networks and contributed to the international policy work on strengthening those networks.³⁴

61. The thematic discussion can facilitate an exchange of views and experiences regarding, inter alia: the impact of regional partnerships on information exchange, joint operations and the development of shared strategies to combat common threats, by highlighting successful initiatives and collaboration within regional cooperation networks to address transnational organized crime and terrorism; further opportunities to foster South-South cooperation and facilitate dialogue among practitioners, including through exchange visits; ways to organize joint cross-regional capacity-building programmes on international cooperation in criminal matters for members of law enforcement and criminal justice agencies, including police officers, prosecutors, judges, immigration, customs and intelligence officials and other relevant stakeholders, aimed at enhancing the capacity of relevant agencies to handle international cooperation requests, in particular with regard to emerging threats.

Questions for consideration

62. The Commission may wish to consider the following points for further discussion:

(a) How do regional cooperation networks contribute to building resilience against evolving threats, and what collective responses and resource-sharing mechanisms have proved effective within those networks?

(b) Which type and structure of regional or global networks have proved useful in practice in supporting international cooperation to counter organized crime, corruption, terrorism and other forms of crime? What challenges have been identified?

(c) How can Member States best support informal asset recovery networks? What challenges are involved in using these networks and making them sustainable?

(d) What lessons have been learned from the experience of conducting periodic reviews and evaluations of the efficiency and effectiveness of global information-sharing networks and of establishing evaluation mechanisms to assess the impact of information-sharing on the successful prosecution of cases?

(e) Has experience been gained in promoting the interconnection of regional judicial and law enforcement cooperation task forces, networks and platforms with a view to enabling direct communication, discussing operational challenges and ongoing cases and exchanging information?

H. Capacity-building for central and other competent authorities involved in international cooperation in criminal matters

63. The increasing need for enhanced international cooperation, especially in areas that require high levels of knowledge, expertise and skills, such as financial crime and asset recovery and cooperation involving electronic evidence, demonstrates the

³³ Available at www.unodc.org/unodc/en/gender/news/women-in-cyber.html.

³⁴ Financial Action Task Force, *Recovering International Proceeds of Crime through Inter-Agency Networks* (Paris, 2023).

importance of capacity-building to enhance the effectiveness of central and other competent authorities.

64. The development of specialized units within central authorities and, where possible, within the competent implementing authorities, such as courts and prosecuting authorities, can be a driving force for improved cooperation. The availability of specialized expertise is heavily dependent on resources, and fundraising for capacity-building should be a priority. This makes it possible to overcome practical challenges and delays linked to the lack of expertise of the persons receiving requests.

65. Since the launch of the Implementation Review Mechanism of the Convention against Corruption, States parties to the Convention have identified a total of 4,348 technical assistance needs, 30 per cent of which relate to the provisions on international cooperation (in particular, mutual legal assistance, extradition, special investigative techniques and law enforcement cooperation) and asset recovery. It is expected that in the coming years, a similar corpus of accumulated knowledge of identified technical assistance needs will result from the reviews conducted within the framework of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.

66. UNODC, including through the GlobE Network and the joint StAR Initiative with the World Bank, continues to support countries in their asset recovery efforts, in particular by facilitating and organizing meetings between key officials and practitioners of requesting and requested jurisdictions.

67. Since its launch in April 2022, the Knowledge Hub on Human Trafficking and Migrant Smuggling (KNOWTS) has enrolled 1,397 participants from 114 countries, 55 per cent of whom are women. Through knowledge-sharing and live events, KNOWTS facilitated the engagement of UNODC experts with practitioners from 414 institutions worldwide, strengthening practitioners' networks. Such events enhance technical skills, foster international collaboration and promote adherence to the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol.

68. UNODC also supports authorities in more than 40 Member States in addressing crimes that, for example, affect the environment, working with national authorities to develop tailored rapid reference guides for investigators and prosecutors and delivering related training. The training covers the use of special investigative techniques and serves as an opportunity to exchange best practices to improve information-sharing and mutual legal assistance.

69. The thematic discussion may offer a platform to further discuss a series of important capacity-building aspects, including: (a) the need for specialized training programmes and international workshops to equip central and competent authorities with advanced skills in digital forensics and the handling of electronic evidence; (b) the significance of creating platforms, forums and online communities to facilitate continuous dialogue and information-sharing among central and competent authorities, as well as the exchange of best practices, methodologies and technological advancements in investigations involving electronic evidence; (c) how to address challenges relating to the availability and affordability of specialized tools required for digital forensics, electronic evidence analysis and cybersecurity; (d) proposed strategies for international collaboration to ensure that central and competent authorities have access to the latest technologies and resources essential for effective investigations; (e) successful models of collaboration between government agencies, academia and private sector entities in the development of training programmes tailored to addressing the unique challenges of countering technology-enabled crimes; (f) the establishment of international certification and recognition programmes for individuals and agencies involved in digital forensics and international cooperation in criminal matters to promote trust and confidence among countries and stakeholders; and (g) the role of UNODC and other international organizations in promoting a culture of collaboration and mutual support in the field of technical assistance, especially for central and other competent authorities involved in international cooperation.

Questions for consideration

70. The Commission may wish to consider the following points for further discussion:

(a) What challenges are encountered in the field of technical assistance by competent authorities involved in international cooperation in criminal matters?

(b) What strategies can be proposed for expanding the use of, and access to, the most advanced and efficient resources essential for effective cross-border investigations, taking into account the varying levels of technology advancement across regions?

(c) Are there any successful models of collaboration between government agencies, academia and private sector entities in the development of training programmes tailored to addressing the challenges of countering technology-enabled crimes? Are there examples of entities involved in such collaboration?

III. Conclusions: addressing gaps and outlining the way forward

71. By facilitating the thematic discussion at its thirty-third session, the Commission will serve as a platform for the exchange of information, best practices and lessons learned, and for the development of effective responses to challenges encountered in the field of international cooperation in criminal matters and the promotion of relevant international instruments and standards for more streamlined international cooperation.

72. The Commission may wish to consider recommending that Member States further strengthen their capacity-building efforts, as well as their legal and institutional frameworks, to effectively deal with international cooperation.

73. The Commission may also wish to recommend that Member States enhance their capacity to carry out the systematic and regular collection of statistical information on the legal bases for international cooperation as a means of understanding the most effective methods for fostering it.

74. The Commission may further wish to identify and prioritize areas in which UNODC might provide technical assistance in close collaboration and coordination with other relevant actors, on the basis of relevant mandates, to better support Member States in the implementation of national policies, laws and institutional arrangements that address current and emerging challenges relating to international cooperation.
