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COMBATING TRANSNATIONAL ORGANIZED CRIME THROUGH BETTER INTERNATIONAL COOPERATION

The globalization of criminal activities has created a need for strengthened forms of international cooperation. The investigation, prosecution and control of crime cannot be confined within national boundaries. To keep pace with contemporary forms of crime, including transnational organized crime, corruption and terrorism, we need improved and streamlined mechanisms.

More concerted efforts are needed in extradition, mutual legal assistance, transfer of sentenced persons, transfer of criminal proceedings, international cooperation for purposes of confiscation, including asset recovery, and international law enforcement cooperation.

The role of United Nations conventions

United Nations multilateral instruments help in harmonizing international cooperation standards. The United Nations Convention against Transnational Organized Crime (UNTOC) and its additional Protocols and the United Nations Convention against Corruption (UNCAC) were adopted following the precedent of the 1988 Drug Trafficking Convention (the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances), to establish rules, institutions and shared responsibility to combat transnational crime. They play a key role in harmonizing obligations and addressing legal gaps in international cooperation in criminal matters. For example, these instruments provide a basis for extradition and mutual legal assistance.

There is almost universal adherence to the three crime-related conventions. As of 5 December 2014, the 1988 Drug Trafficking Convention had 189 parties, the UNTOC 183 and the UNCAC 174 parties.

United Nations multilateral instruments as catalysts for further international cooperation

The universal crime-related conventions encourage States parties to conclude bilateral and multilateral agreements to increase the effectiveness of international cooperation.

The ultimate objective is to enhance international cooperation through broadening the range of legal bases on which States can rely through a combined use of multilateral and bilateral agreements.

The model treaties developed through the United Nations Crime Congresses have offered guidance towards convergence of related treaty provisions. The Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Criminal Matters, in particular, are valuable tools for the development of bilateral and multilateral arrangements in the area of judicial cooperation.

The United Nations Office on Drugs and Crime (UNODC) has also developed tools that promote and support international cooperation in criminal matters, including the Directory of Competent Authorities, the Mutual Legal Assistance Request Writer Tool and, most recently, the knowledge management portal known as SHERLOC (Sharing Electronic Resources and Laws against Crime). UNODC also runs the Counter-Terrorism Online Learning Platform, which provides a gateway to practitioners (mostly criminal justice and law enforcement) for networking, exchanging information and sharing best practices.

The regional perspective

The second half of the 20th century witnessed the advent of regional agreements and schemes, often among

States of the same region or those sharing common legal traditions. For example, the European Union Member States have agreed, subject to specified grounds for refusal, to recognize and execute European evidence and arrest warrants without any further formalities. The Caribbean Community (CARICOM) also has an arrest warrant treaty.

Central and competent national authorities

The ability to promptly request and respond to international cooperation requests is particularly important, given the serious nature of the offences and their transnational nature. Under the crime-related conventions, States parties designate central and competent authorities to facilitate international cooperation in criminal matters.

These authorities coordinate the sending, receiving and processing of requests. The most commonly designated central authorities for mutual legal assistance are ministries of justice, offices of the attorney-general and ministries of foreign affairs.

States have extensively shared their experiences of effective central authorities, such as the importance of around-the-clock availability, their competence for mutual legal assistance purposes under different treaties and quality control of requests.

The extent to which central authorities are able to perform an effective coordination role is also dependent upon the availability of infrastructure, staffing and training opportunities. UNODC has provided technical assistance to Member States to enhance their capacity to deal quickly and efficiently with mutual legal assistance requests and facilitate international cooperation.

Regional cooperation networks

Regional networks can also enhance international cooperation. UNODC supports Member States in setting up networks of prosecutors and central authorities, such as the Central American Network of Prosecutors against Organized Crime (REFCO) and the Network of West African Central Authorities and Prosecutors against Organized Crime (WACAP).

Enhancing international cooperation

The Thirteenth Crime Congress will consider further opportunities to broaden the range of legal bases on which Member States can rely for international cooperation in criminal matters, to build on the existing framework of international conventions and regional treaties. ■