Committee: UNODC
Main submitter: Islamic Emirate of Afghanistan.
Co-Submitters: Argentina, Bolivia, Honduras, India, Nicaragua, Spain, Sudan, Pakistan.

Signatories: Albania, Bangladesh, Belgium, Brazil, Cambodia, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, DRC, Egypt, El Salvador, Indonesia, Iran, Iraq, Ireland, Italy, Kenya, Lebanon, Mexico, Morocco, Netherlands, Panama, Paraguay, Philippines, Serbia, Spain, Sweden, Switzerland, Syria, Thailand, Turkey, UAE, Ukraine, Uruguay, USA, Vietnam, Yemen.

Topic: Dismantling transnational criminal organizations and the limits of national sovereignty in international law enforcement.

UNITED NATIONS OFFICE ON DRUGS AND CRIME,

Reaffirming the Charter of the United Nations, particularly Articles 2(1), 2(4), and 2(7) on sovereign equality, non-intervention, and the prohibition of the threat or use of force,

Recalling General Assembly resolution 55/25, which is the Convention against Transnational Organized Crime, in particular Article 4 on the protection of sovereignty and the prohibition of unilateral intervention on foreign land,

Recognizing that transnational criminal organizations exploit gaps and loopholes between national legal systems and that cooperation and coordination between nations can take longer than the time it takes for criminals to erase evidence,

Mindful of the law of the sea, including flag-state jurisdiction on the Law of the Sea (UNCLOS) and Article 17 of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,

1. *Reaffirms* that all measures taken or developed against transnational criminal organizations must respect sovereignty, sovereign equality, territorial integrity, and consent, in accordance with the Charter of the United Nations and the Organized Crime Convention:
    a. In accordance with Article 2(1) of the Charter, every member state is endowed with sovereign equality without distinction, including but not limited to:
        i. Differences in form of government, political system, method of governance, level of development, or international connotations, and
        ii. Questions of recognition or representation, which shall not affect a state's entitlement to the protection of these principles,
    b. Following Article 4 of the Organized Crime Convention, no state party shall perform in the territory of another state functions that, by its domestic law, are reserved exclusively to that state's authorities without prior and explicit consent from the host state, with particular regard to:
        i. Arrest, search, seizure, and interception of communications,
        ii. Collection of evidence from persons, premises, enterprises, and digital infrastructure, and
        iii. Undercover or controlled operations, except arrangements contemplated by Article 20 of the Convention and agreed by the states involved or potentially concerned;

c. Pursuant to Article 2(7) of the UN Charter, the fight against crime shall not serve as a justification for intervention or influence in matters within a state's domestic jurisdiction, so that:
    i. Requests for cooperation shall be addressed through established and secure legal channels and remain subject to the consent of the requested state,
    ii. The requested state retains discretion to refuse requests that threaten its sovereignty, security, integrity, public order, or essential interests if reason and justification is provided explicitly, publicly, and validated by a UN appropriate body, and
    iii. States shall refrain from either threatening with unilateral action or pressuring a state military, economically, or financially, in order to pressure another state into cooperation or action;

2. *Declares* that the designation of criminal groups under national sanction or terrorism lists does not, by itself, account for an international legal basis for the use of force:
    a. Taking into account that such designations are domestic or sanctions measures:
        i. They do not authorize the use of force on foreign territory without express consent, nor against foreign-flagged vessels, and
        ii. They shall not invoke to override treaties and/or their obligations concerning non-intervention and consent, nor shall be used as a justification of any kind;
    b. In accordance with Article 51 of the UN Charter, any exercise of military action of self-defense against criminal or armed groups shall:

i. Be reported to the Security Council as soon as possible, and

ii. Remain subject to the Council's responsibility to maintain international peace and security, disregarding discrepancy by reporting state;

3. *Calls upon* states to conduct all maritime enforcement against transnational organized crime with a strict abidance to the United Nations Convention on the Law of the Sea (UNCLOS), including the exclusive flag-state jurisdiction on high seas, and in accordance with Article 17, to base any boarding, search, detention or seizure of a foreign vessel on the consent of the flag state or on another recognized legal basis or law, and to disclose publicly and explicitly to the responsible United Nations sections the motives and legal basis of any exercise of force conducted outside their own land or maritime territory:

    a. Abiding to Article 110 of UNCLOS, the boarding, searching, or detention of a vessel without flag-state consent is permitted only in limited and exceptional cases listed there, such as piracy, slave trade, unauthorized broadcasting, and stateless vessels, noting that:

        i. Due to the exceptionality of these occurrences, they shall be interpreted strictly,

        ii. Unilateral interpretation or national designations will not serve as justification for an expansion or adjudication of these terms to a vessel, and

        iii. A suspicion of drug trafficking alone is not a one of the listed exceptions under the Article and therefore serves not as legal basis for the exercise of force;

b. Bearing in mind Article 98 of UNCLOS, all persons or vessels in distress shall be rescued or aided regardless of any circumstances, and

c. In order to reduce disputes that rise from unexplained exercises, states shall disclose the legal basis for operation within a 1 week period in a written and public report to UNODC, and, in case force was used, to the Security Council;

4. *Urges* states to strengthen international cooperation under the Organized Crime Convention, in particular mutual legal assistance, joint investigations, and coordination of parallel proceedings and exercises, so that that requests are processed with speed exceeding that of unilateral action, and so that any refusal or delay is explained:

    a. In respect of mutual assistance under Article 18 of the Conventions, states shall equip their central authorities with:

        i. Sufficient and sufficiently trained personnel with continuing training,

        ii. Case management systems, including secure electronic tracking of requests,

        iii. A duty to publish annually average response times and statistics on requests received, executed, and the status of ongoing requests, and

        iv. A moral duty to act in accordance with the principles of the Convention,

    b. Where requests are refused or delayed, states shall:

        i. Provide written reason citing the legal ground,

        ii. Consult the requesting state for alternatives, corrections, or precision, and

        iii. Allow the requesting state to resubmit the request,

    c. Joint investigations teams shall adhere to Article 19 of the Organized Crime Convention at all times;

5. *Recommends* that states refrain from accessing data held on another state's territory without notifying the state involved and receiving consent, that they apply the safeguards of necessity, proportionality, and judicial authorization to all cross-border and international electronic evidence, a Neutral Digital Evidence Escrow, and the following guidelines:
    a. In order to respect a state's integrity, states shall notify it:
        i. Where an investigation reached, people, infrastructure, data or assets located on its territory,
        ii. Within a period no longer than 10 days after and if access begins, and
        iii. Except where an unbiased judge finds that notification would gravely jeopardize the investigation, and in such cases, notification should follow immediately after the risk period ends,
    b. A Neutral Digital Evidence Escrow may be created after a pursuant agreement between the states concerned, this escrow shall:
        i. Be subject to judicial order, where affected states of both parties may obtain access to evidence and a full log of access, and
        ii. Deposit data safely and securely in the face of possible alterations;

6. *Encourages* states to trace all and any type of evidence, including and most importantly economic procedures and large transaction or suspicious activities through any means necessary that abide by the Organized Crime Convention, UNCLOS, and clauses 1, 2, and 3 of this resolution, in full cooperation with international and domestic institutions;

7. *Urges for* the implementation of immediate sanction packets applied to all countries applying any form of enforcement intervention externally without previous consent, including sanctions such as but not limited to:
    a. Exclusion from international criminal investigating organizations such as but not limited to:
        i. International Criminal Court (ICC),
        ii. International Court of justice (ICJ), and
        iii. INTERPOL and the Central American Integration System (SICA), to ensure real time communication and data sharing on transnational criminal networks,
    b. Limitation and embargoes on production and acquisition of products such as but not limited to:
        i. Weaponry,
        ii. Tactical gear, and
        iii. Police enforcement vehicles,
    c. Obligation to publicly publish all major law enforcement operations, internally and externally,
    d. Damage and repair payments,
    e. Extradition to the nation of origin if requested formally, and
    f. Financial sanctions such as but not limited to:
        i. Loan suspension and,
        ii. Tariff implementation/increase;

8. *Requests* the ratification of the Convention against Cybercrime of all present nations, along with the illegalization of all features in any OS that allow for a full/large scale wipeout of information in a device;
9. *Further asks* for the creation of a specialized treaty/contract framework regarding consent of law enforcement in territories external to requesting countries, covering points such as but not limited to:
    a. Allowed, delimited areas for action,
    b. Time periods in which the enforcement must be carried:
        i. Revisable, and
        ii. Extendible, once the allotted period is reaching an end,
    c. Specific types of enforcement, including permissions such but not limited to:
        i. Violence use,
        ii. Arrests,
        iii. Investigation,
        iv. Seizures of illicit materials, and
        v. Search warrants; and

10. *Reaffirms* the sovereignty and territorial integrity of all Member States and emphasizes that all international efforts against illicit drug economies must:
    a. Have the prior consent of the Member State concerned,
    b. Be led by national governments, with technical support from UNODC and UNDP, such as but not limited to:
        i. Training for police, customs and border officials, and

ii. Equipment for detecting drugs and the chemicals used to make them;

c. Direct all funding through internationally recognized governments, not non-state armed groups, and

d. Encourage regional cooperation through the African Union and the League of Arab States, including joint border patrols and intelligence sharing.