

**Towards a Multilateral Treaty for Mutual Legal Assistance and Extradition for  
Domestic Prosecution of the Most Serious International Crimes**

Second Preparatory Conference – Noordwijk (The Netherlands),  
11-14 March 2019

**CHAIRS’  
CONCLUSIONS**

The Second Preparatory Conference was both successful and productive, attracting participants from 50 supporting States from all over the world as well as practitioners and civil society (Amnesty International, Coalition for the ICC, Civitas Maxima, EU Genocide Network, FIDH, International Commission of Jurists, Open Society Justice Initiative, Parliamentarians for Global Action, Human Rights Watch, and Redress). Building upon the First Preparatory Conference, in October 2017 in Doorn (The Netherlands), this has been a second important step forward towards the adoption of a new multilateral treaty concerning mutual legal assistance and extradition for core international crimes. The broad support for the MLA initiative encourages us to continue on this path towards negotiations on a new multilateral treaty on mutual legal assistance and extradition for domestic prosecution of the most serious international crimes.

Based on the presentations and discussions in both the plenary and the working sessions, the chairman has reached the following conclusions.

1. Draft Rules of Procedure

Comments made on the Draft Rules of Procedure were taken into account and they have been altered accordingly. The new version of this document was presented to the conference and will also be shared electronically with all participants. Should there be any additional comments these can be sent to the core group before the 8<sup>th</sup> of April 2019 ([MLA-initiative@minvenj.nl](mailto:MLA-initiative@minvenj.nl)). The core group aims to reach agreement with the Supporting States on the Draft Rules of Procedure during the next strategic meeting which is scheduled to take place on the 8<sup>th</sup> of May at the Netherlands’ Ministry of Justice and Security.

2. Preliminary Draft Treaty

Regarding the scope of the treaty three options were identified:

- 1: Leave out the definitions of crimes and the provision on criminalization in order to be a purely MLA treaty.
- 2: Copy/paste the 1998 Rome Statute definitions and keep the provision on criminalization.
- 3: Also incorporate other international crimes such as torture and enforced disappearance in the treaty.

This last option could either be part of the first option, so without definitions and a provision on criminalization, or as part of the second option, in which case the copy/paste would have to be expanded to existing definitions of these other crimes.

The core group will carefully reflect on these three options in the coming period.

In any case, there was consensus that the definitions of crimes should not be renegotiated and that the treaty should provide flexibility and leave room for the development of the law.

When it comes to the MLA and Extradition provisions, the participants noted that the Preliminary Draft Treaty covers all essential aspects of a modern MLA and Extradition treaty. However, many useful interventions were made in order to improve specific provisions. Furthermore, the wording of the Preliminary Draft Treaty should be streamlined and there should be no unnecessary discrepancies between the MLA provisions and their Extradition counterparts.

Although there was wide support for making use of provisions from UNTOC and UNCAC, these provisions are not always a good fit for the crimes the MLA initiative deals with. In the redrafting process inspiration can also be drawn from other modern and existing instruments.

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Furthermore, there was broad support for deleting the reference to the granting of Amnesty.

The final provisions will be reviewed in light of the discussion on issues such as reservations, the relation to other agreements, and simplifying the amendment procedure.

3. Way forward

Excellencies, dear colleagues and friends, the core group will meet just after the closure of this conference and in the following weeks in order to take stock of the very fruitful discussions we had during these last days. In the meantime and thereafter, we will continue our efforts to expand the number of supporting States in order to get as close as possible to universality.

The Core Group was excited to announce that Silvia Fernández de Gurmendi will be put forward as chair of the Diplomatic Conference. We look forward to cooperating closely with her in bringing the initiative forward.

Meanwhile, we will continue to stay in close contact with the Special Rapporteur of the ILC's Crimes against Humanity project, Professor Sean Murphy.

Our goal for this conference was to receive the input of supporting States and civil society on the first Preliminary Draft Treaty.

We are inspired by your active participation and the countless valuable comments and ideas you have shared with us here in Noordwijk. All these comments, as well as the written comments we have received, will be considered carefully in the redrafting process. Although we will need time to reflect, we are determined to prepare a second Preliminary Draft Treaty as soon as possible in order to finally close the legal gap and provide our practitioners with the tools they need in the important fight against impunity.