

Resumed session

Third, we also support the specification under paragraph 7 that extradition “shall be subject to the conditions provided for by the national law of the requested State or by applicable extradition treaties, including the grounds upon which the requested State may refuse extradition.” That enhances legal certainty, which is one of the essential condition for effective judicial cooperation.

Fourth, we support the insertion of a specific paragraph, similar to Article 44, paragraph 15, of the UN Convention against Corruption, limiting the obligation of extradition when the requested State has substantial grounds to believe that such request may lead to prosecution or punishment on accounts of a person’s gender, race, religion, nationality, ethnic origin, culture, membership a particular social group, political opinions or other grounds that are universally recognized as impermissible under international law. That limitation is in line with international human rights standards.

With regard to draft Article 14 on mutual legal assistance, we are of the view that the insertion of the nonprejudice clause under paragraph 7 related to the relationship with other bilateral or multilateral treaties providing for mutual legal assistance is appropriate for the purpose of legal certainty. However, the commentary to the draft article may be confusing when it states that “if particular paragraphs of draft article 14 require the provision of a higher level of assistance than is provided for under the other mutual legal assistance treaties, the obligations set forth in those paragraphs shall be applied as well” The commentary indeed seems to suggest national authorities would have to make, on a case by case basis, a comparative evaluation of the level of assistance provided under Article 14 and under the relevant treaty.

to stress that a future convention will have to establish with precision its relationship with other treaties providing for mutual legal assistance.

With regard to paragraph 8 of draft Article 14 and to the procedure established under the annex, we reserve the right to comment at a later stage of the discussions within the Sixth Committee.

Finally, with regard to draft Article 15 we wish to express our general support for the dispute settlement provision as drafted, while expressing doubts over the need to insert the optout clause under paragraph 3, unless a new specific provision is inserted prohibiting reservations from the treaty.

That concludes Italy's submission on Cluster 4.