**Non-paper containing a draft questionnaire for the review of the implementation of the United Nations Convention against Transnational Organized Crime (UNTOC), reflecting the outcome of the informal consultations held in July and September 2019**

***Status date: 25 September 2019***

**Introduction**

In accordance with resolution 9/1, the Intergovernmental expert group (IEG) of the Conference of the Parties to UNTOC has been tasked with, inter alia, finalizing and harmonizing the self-assessment questionnaires. Moreover, consistent with the workplan for the implementation of resolution 9/1, adopted by the extended Bureau at its meeting on 5 February 2019, the President of the Conference and/or the Chair of the IEG were to make use of informal consultation to advance the substantive work on, among other documents, the questionnaires.

The draft questionnaire for the implementation of UNTOC was discussed in the informal consultations held on 3 June, 27 June, 22-23 July and 5-6 September 2019, led by the Chair of the IEG.

The present document was prepared by the Chair of the IEG based on the outcome of the informal consultations held on 22-23 July (questions 1-48 discussed) and 5-6 September (questions 49-113bis discussed) in accordance with the following methodology:

• A harmonization of terminology regarding the references to “domestic law”, “national legal system”, “legislation”, “legal framework”, etc., by a systematic use of “your country’s legal framework” in the main questions, and the simpler “your domestic law” in sub-questions, with the exception of questions on criminalization, where the reference to “country’s legislation” was used.

• A decision to choose one of the existing alternatives regarding many, but not all, of the pending substantive issues.

• The elimination of a few redundant questions.

• The elimination of the numbering of paragraphs that invite countries to comment on their experience at the end of a question, on the assumption that only questions are numbered, not paragraphs.

This non-paper was prepared to inform the discussions of the IEG to held from 9 to 11 October 2019. Based on the progress already achieved by experts through their participation in the informal consultations, delegations may wish to pay attention, in particular, to the pending finalization of questions 8, 15, 17, 20, 22bis, 29, 30, 34bis, 35, 44, 54bis, 64, 68, 89, 113bis.

**Draft questionnaire for the review of the implementation of the United Nations Convention against Transnational Organized Crime (UNTOC)**

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| **General guidance for replying to the questionnaire**  • States will be reviewed based on the information they have provided to the reviewing State parties, in accordance with section V of the Procedures and Rules for the functioning of the Mechanism for the Review of the United Nations Convention against Transnational Organized Crime and the Protocols thereto. If they have not yet provided the relevant documents to the Secretariat, States are called upon to upload either any laws, regulations, cases and other documents, or brief descriptions of them which are of relevance for responding to the questionnaire to the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal.  • Links to the information uploaded to SHERLOC can be then provided as part of the replies to each question.  • In addition to providing links to the information uploaded to SHERLOC, States are called upon to specify the applicable legislation and relevant provisions under each question to which the answer is “Yes”, and under any other questions where appropriate.  • States are requested to refrain from attaching any annexes, including hard copies of documentation, to the completed questionnaires.   * When responding to the self-assessment questionnaires, States parties may also refer to information provided in the context of other relevant review mechanisms of instruments to which they are parties. States parties shall bear in mind that any update since previous submissions of information under other review mechanisms are appropriately reflected in the responses. In particular, when reviewing the same legislation for obligations which are identical or similar to those under the United Nations Convention against Corruption, a State party under review may refer to responses and additional documentation that it has submitted under the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. * The provisions of the Convention and the Protocols entail various degrees of requirements. In accordance with the Procedures and Rules, the Review Mechanism shall progressively address all the articles of the Convention and the Protocols thereto. The different nature of each provision should therefore be taken into account in formulating the responses to the related questions and while reviewing them in the following phases of the country review. |
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**I. General information**

1. Has your country designated a Central Authority pursuant to article 18 paragraph 13?

Yes  No

If the answer is “Yes”, please provide any available information related to the name and address of such authority or authorities.

1. Has your country informed the Secretary General of the name and address of the authority or authorities that can assist other State parties in developing measures to prevent TOC (art. 31 para. 6) ?

Yes  No

If the answer is “Yes”, please provide any available information related to the name and address of such authority or authorities.

**II. Definitions and criminalization under the Convention**

**A. Definitions**

1. Does your country’s legal framework include the definitions set forth in article 2?

Yes  Yes, in part  No

Please explain:

1. Does your legal framework permit your country to implement the Convention without adopting specific definitions?

Yes  Yes, in part  No

Please explain:

1. [In particular, does your country’s legal framework include confiscation of property derived from or obtained, directly or indirectly, through the commission of an offence? (art. 2 (e))?]

(Alternative: clarify this issue only on questions re: proceeds of crime – see q. 22.)

**B. Criminalization of participation in an organized criminal group (article 5)**

1. Is participation in an organized criminal group criminalized under your country’s legislation in accordance with article 5?

Yes  No

1. If the answer to question 6 is “Yes” does participation in an organized criminal group consist of:
2. agreeing with one or more other persons to commit a serious crime in order to obtain — directly or indirectly — a financial or other material benefit?

Yes  Yes, in part  No

1. if the answer to question 6 a) i) is “Yes”, does the criminal offence as provided in your domestic law require an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group (art. 5, subpara. 1 (a) (i))?

Yes  Yes, in part  No

1. If your domestic law requires an act in furtherance of the agreement has your country so informed the Secretary-General of the United Nations as required in paragraph 3 of article 5?

Yes  No

1. If the answer to question 6 is “Yes”, does participation in an organized criminal group consist of taking an active part in the criminal activities of an organized criminal group with knowledge of either the aim and general criminal activity of that group or its intention to commit the crimes concerned, or taking an active part in other activities of an organized criminal group in the knowledge that such participation will contribute to the achievement of the criminal aim of that group (art. 5, subpara. 1 (a) (ii))?

Yes  Yes, in part  No

Please explain, if needed:

1. Does your country’s legislation establish as criminal offences the acts of organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group (art. 5, para. 1 (b))?

Yes  Yes, in part  No

Please explain, if needed:

**C. Criminalization of the laundering of proceeds of crime (article 6)**

1. Is the laundering of proceeds of crime criminalized under your country’s legislation in accordance with article 6, paragraph 1 (a), of the Convention?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part”, please specify the manner in which the laundering of proceeds of crime is criminalized under your domestic law.

(b) If the answer is “Yes”, are all serious crimes and the offences covered by the Convention and the Protocols to which your State is a party predicate offences under your domestic law to the offence of money-laundering (art. 6, para. 2 (a) and (b))?

Yes  Yes, in part  No

(i) If the answer is “Yes, in part”, please specify which of the offences covered by the Convention and the Protocols to which your State is a party are not predicate offences under your domestic law to the offence of money-laundering.

(ii) Please provide information on the scope of predicate offences set out in your domestic law, [including any list of specific predicate offences that may be set out by your domestic law; indicate, for example, the relevant Acts and Article numbers] (art. 6, para. 2 (b):

1. Does your country’s legal framework include predicate offences committed outside your jurisdiction? (art. 6, para. 2c)

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please describe the conditions under which a predicate offence committed in a foreign jurisdiction may be recognized pursuant to your domestic law.

1. Are the acquisition, possession and use of property known at the time of receipt to be the proceeds of crime, criminalized under your country’s legislation (art. 6, subpara. 1 (b) (i))?

Yes  Yes, in part  No

Please explain briefly:

1. Are participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a money-laundering offence criminalized under your country’s legislation (art. 6, subpara. 1 (b) (ii))?

Yes  Yes, in part  No

Please explain briefly:

12. Has your country furnished copies of its laws that give effect to article 6 and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations?

If yes, please provide a link:

If not, please provide this information

12bis. Do the fundamental principles of your domestic law require that the offences set forth in para. 1 of article 6 cannot apply to the persons that committed the predicate offence. (art. 6, para. 2 (e))?

Yes  Yes, in part  No

Please explain briefly:

**D. Criminalization of corruption (article 8)**

The review of Articles 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not party to the United Nations Convention against Corruption. [States parties that are parties to UNCAC may wish to update the information provided during the UNCAC review]

1. Is active bribery of a public official criminalized under country’s legislation (art. 8, para. 1 (a))?

Yes  Yes, in part  No

Please explain briefly:

1. Is passive bribery of a public official criminalized under country’s legislation (art. 8, para. 1 (b))?

Yes  Yes, in part  No

1. Is bribery involving a foreign public official or international civil servant criminalized under your country’s legislation (art. 8, para. 2)?

Yes  Yes, in part  No

States are invited to comment, in response to this provision (art. 8, para. 2) of the Convention, which states that States parties shall consider adopting such legislative and other measures as may be necessary.

1. Is participation as an accomplice in bribery offences criminalized under your country’s legislation (art. 8, para. 3)?

Yes  No

**E. Criminalization of obstruction of justice (article 23)**

1. Is obstruction of justice criminalized under your country’s legislation in accordance with article 23 of the Convention?

Yes  Yes, in part  No

If the answer is “Yes, in part” or “No”, please specify the manner in which obstruction of justice is criminalized under your domestic law.

[Alternative:] Please explain briefly]

**III. Law enforcement and the judicial system**

**A. Liability of legal persons (article 10)**

1. Is liability of legal persons established under your country’s legal framework in accordance with article 10 of the Convention?

Yes  Yes, in part  No

(a) If the answer is “Yes”, is this liability:

(i) Criminal?

Yes  No

(ii) Civil?

Yes  No

and/or

(iii) Administrative?

Yes  No

(iv) What kind of sanctions are provided for in your country’s legal framework? Please list them.

**B. Prosecution, adjudication and sanctions, and establishment of criminal record (articles 11 and 22)**

1. Does your country make the commission of offences covered by the Convention liable to sanctions that take into account the gravity of those offences (art. 11, para. 1)?

Yes  No

1. Has your country established, where appropriate, a long statute of limitations period in which to commence proceedings for any offence covered by the Convention and a longer period where the alleged offender has evaded the administration of justice (art. 11, para. 5)?

Yes  Yes, in part  No

Please specify the type of measures adopted by your country

[Or] Please explain briefly:

1. Has your country taken measures to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings (art. 11, para. 3)?

Yes  No

**C. Confiscation and seizure (article 12)**

1. Does your country’s legal framework enable confiscation of:

(a) Proceeds of crime (as defined in art. 2 e)[[1]](#footnote-1)) derived from offences covered by the Convention (art. 12, para. 1 (a)?

Yes  No

(a.2) Property the value of which corresponds to that of proceeds of crime derived from offences covered by the Convention (art. 12, para. 1 (a))?

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by the Convention (art. 12, para. 1 (b))?

Yes  No

(c) Proceeds of crime transformed or converted into other property (art. 12, para. 3)?

Yes  No

(d) Proceeds of crime intermingled with property acquired from legitimate sources (art. 12, para. 4)?

Yes  No

If the answer is “yes”, please provide information on the possibility to confiscate companies and corporate assets under your domestic law..

(e) Income or other benefits derived from items described under (a), (c) and (d) above (art. 12, para. 5)?

Yes  No

If the answer is “yes”, please specify if the words “other benefits” encompass any economic advantage derived or obtained through the commission of an offence.

22bis. Does your domestic legal framework allow confiscation without a prior conviction of the offender?

Yes  No

States are invited to provide information on the pertinent legislative framework and on the required standard of proof.

1. Does your country’s legal framework enable the identification, tracing, freezing or seizure of items described above for the purpose of eventual confiscation (art. 12, para. 2)?

Yes  No

1. Does your country’s legal framework permit shifting the burden of proof to the defendant to show that alleged proceeds of crime were derived from legitimate sources (art. 12, para. 7)?

Yes  No

If the answer is “yes”, please provide information on the conditions under which your domestic legal framework permits shifting the burden of proof to the defendant.

1. Does your country’s legal framework empower courts/authorities to make available or seize bank, financial or commercial records for:

(a) Investigation or prosecution of offences covered by the Convention in your country?

Yes  No

(b) Securing confiscation in your country (art. 12, para. 6)?

Yes  No

**D. Jurisdiction (article 15)**

1. Are there any circumstances under which your country does not have jurisdiction over offences committed in its territory (art. 15, para. 1 (a))?

Yes  No

If the answer is “Yes”, please specify the circumstance(s) under which your country does not have jurisdiction over offences committed in its territory.

1. Does your country have jurisdiction to prosecute the offences covered by the Convention when the offences are committed on board a vessel flying its flag or an aircraft registered under its laws (art. 15, para. 1 (b))?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please specify the manner in which your country has jurisdiction to prosecute the offences covered by the Convention as per article 15, paragraph 1 (b).

1. Does your country’s legal framework allow for the following extraterritorial jurisdictional bases?

(a) Jurisdiction to prosecute the offences covered by the Convention when committed outside its territory by its nationals (or stateless persons who have habitual residence in the country) (art. 15, para. 2 (b))?

Yes  No

(b) Jurisdiction to prosecute the offences covered by the Convention when committed outside its territory against its nationals (art. 15, para. 2 (a))?

Yes  No

(c) Jurisdiction to prosecute participation in an organized criminal group that occurred outside its territory with a view to the commission of a serious crime (art. 2, para. (b)) within its territory (art. 15, subpara. 2 (c) (i))?

Yes  No

(d) Jurisdiction to prosecute ancillary offences related to money-laundering offences committed outside its territory with a view to the commission of the laundering of criminal proceeds in its territory (art. 15, subpara. 2 (c) (ii))?

Yes  No

**E. Protection of witnesses, and assistance to and protection of victims (articles 24 and 25)**

1. Does your country’s legal framework provide effective provision of protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by the Convention (art. 24, para. 1)?

Yes  No

1. If the answer to question 33 is “Yes”, does your country’s legal framework extend protection, as appropriate, to relatives of witnesses and other persons close to them?

Yes  No

If the answer is “Yes”, please specify the manner in which your domestic law extends protection to relative of witnesses or other persons close to them.

1. If the answer to question 33 is “Yes”, does your country’s legal framework enable:

(a) The establishment of procedures for the physical protection of witnesses, for example their relocation and the non-disclosure or limitations on the disclosure of information concerning their identity and whereabouts (art. 24, para. 2 (a))?

Yes  No

If the answer is “Yes”, please specify and provide any available information on constitutional or other basic legal requirements existing in your domestic law, if any, and related to the protection of basic rights of the defendant on the one hand and implementing protective measures for witnesses.

(b) The establishment or adjustment of domestic evidentiary rules that would permit witness testimony to be given in a manner that ensures the safety of the witness such as through the use of communication technologies (art. 24, para. 2 (b))?

Yes  No

If the answer is “Yes”, please specify and provide any available information on constitutional or other basic legal requirements existing in your domestic law, if any, and related to the protection of basic rights of the defendant on the one hand and implementing protective measures for witnesses.

1. Has your country taken appropriate measures within its means to provide assistance and protection to victims of offences covered by the Convention[[2]](#footnote-2), in particular in cases of threat of retaliation or intimidation (art. 25, para. 1)?

Yes  No

1. Has your country established appropriate procedures to provide access to compensation and restitution for victims of offences covered by the Convention (art. 25, para. 2)?

Yes  No

1. Does your country’s legal framework enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders involved in organized criminal activities in a manner not prejudicial to the rights of the defence (art. 25, para. 3)?

Yes  No

34 bis. Has your country entered into agreements or arrangements with other States for the relocation of witnesses [and/or victims insofar as they are witnesses,] and, as appropriate, for their relatives and other persons close to them in order to ensure their physical protection from potential retaliation or intimidation (art. 24)?

[alternatively move this question to best practices 117]

Yes  No

**F. Measures related to the investigation of cases of transnational organized crime**

1. Does your country’s domestic legal framework, within its possibilities and under the conditions prescribed by its domestic law for the purpose of effectively investigating and combating organized crime, in particular, and in accordance with article 20, paragraph 1, allow for the appropriate use of, special investigative techniques. such as:

(a) Controlled delivery?

Yes  No

and/or where it deems appropriate

(b) Electronic or other forms of surveillance?

Yes  No

and/or

(c) Undercover operations?

Yes  No

Please explain:

If the answer to question 35 (b) is “Yes”, please provide –if possible- information related to electronic surveillance in your country particularly as it relates to the sharing of this information with foreign law enforcement .

States are encouraged to provide any available information on the judicial control applicable to the aforementioned special investigative techniques.

1. Does your country take measures to encourage persons who participate or have participated in organized criminal groups to provide information useful to competent authorities for investigative and evidentiary purposes or any other concrete help that may contribute to depriving organized criminal groups of their resources or proceeds of crime (art. 26, para. 1)?

Yes  No

(a) If the answer is “Yes”, does your domestic law provide for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence or offences covered by the Convention (art. 26, para. 2)?

Yes  No

(b) If the answer is “Yes”, does your domestic law provide for the possibility of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence or offences covered by the Convention (art. 26, para. 3)?

Yes  No

1. Has your country entered into any bilateral or multilateral agreement or arrangement with other States parties concerning the treatment (mitigating punishment, immunity) of persons who can provide substantial cooperation to the competent law enforcement and investigative authorities of either contracting party (art. 26, para. 5)?

Yes  No

**IV. International cooperation in criminal matters**

**A. Extradition (article 16)**

1. In your country, is extradition granted:

(a) By statute?

Yes  No

and/or

(b) By treaty or other agreement or arrangement (multilateral or bilateral)?

Yes  No

and/or

(c) By virtue of reciprocity or comity?

Yes  No

If your answer to question 38(b) is “yes”, does your country use the Convention as a legal basis for cooperation on extradition with other States parties to the Convention (art. 16, para. 5 (a))?

Yes  Yes, under conditions  No  Not applicable

Please explain:

Have you communicated so to the Secretary General of the United Nations (art. 16, para. 5 (a))?

Yes  No

If your answer to question 38 (a), (b), or (c) is “No”, has your country, in appropriate cases, sought to conclude treaties on extradition (art. 16, para. 5 (b))?

Yes  No

1. If in your country extradition is conditional on the existence of a treaty, have the offences set forth in the Convention[[3]](#footnote-3) in practice been deemed to be extraditable offenses in bilateral or multilateral treaties (art. 16, para. 3)?

Yes  Yes, in part  No  Not applicable

1. If in your country extradition is granted by statute, does that statute cover all offences set forth in the Convention as extraditable offences (art. 16, para. 6)?

Yes  Yes, in part  No  Not applicable

1. What are the conditions provided for in your domestic law for granting extradition, including the minimum penalty requirement (as the threshold to identify extraditable offences)and the grounds on which your country may refuse extradition (art. 16, para. 7)?

Please explain briefly:

1. Is the double criminality requirement established in your domestic legal framework for granting an extradition request (art. 16, para. 1)?

Yes  Yes, in part  No

If the answer is “Yes, in part”, please explain how or to what extent the double criminality principle is required for granting an extradition request.

1. Does your country’s legal framework provide for specific evidentiary requirements for granting an extradition request (art. 16, para. 8)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes in part”, please specify which specific evidentiary requirements are provided for in your domestic legal framework for granting an extradition request.

43bis. Does your country’s legal framework provide for expedited extradition procedures (in relation to any offence to which this article applies)? (art. 16, para. 8)

Yes  No

If the answer is “Yes”, please provide information on simplified extradition proceedings available in your country and under which conditions these proceedings apply.

43ter. Does your country’s legal framework provide for simplified evidentiary requirements (in relation to any offence to which this article applies) (art. 16, para. 8)?

Yes  No

If the answer is “Yes”, please provide information on simplified evidentiary requirements available in your country and under which conditions these proceedings apply

1. Does your country refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters (art. 16, para. 15)?

Yes  No

If the answer is “Yes”, please specify in which circumstances a request for extradition could be refused on the sole ground that the offence is also considered to involve fiscal matters.

1. If your country does not extradite its nationals, is it able to establish jurisdiction over offences covered by the Convention when those offences are committed by its nationals outside its territory (arts. 15, para. 3, and 16, para. 10)?

Yes  Yes, in part  No

States are invited to share examples of their positive experiences or good practices in applying the Convention regarding the extradition of the nationals of the requested State to another country.

1. If your country does not extradite an alleged offender on any ground other than the nationality of the offender, is it able to establish jurisdiction over offences covered by the Convention when those offences are committed by that person outside its territory (art. 15, para. 4)?]

Yes  Yes, in part  No

47. Does your country’s legal framework provide such measures as may be necessary to establish jurisdiction over the offences covered by this Convention and the relevant Protocols thereto when the alleged offender is present in your territory and your country does not extradite him or her? (art. 15, para. 4)

Yes  Yes, in part  No

If the answer is yes in part, please explain.

48. Does your country’s legal framework provide for conditional extradition or surrender in accordance with Article 16 para. 11 of the Convention?

Yes  No

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1. If your country does not extradite its nationals, does your legal framework permit, upon application of the requesting State, enforcing the sentence that has been imposed to the person sought under the domestic law of the requesting State (art. 16, para. 12)?

Yes  Yes, in part  No

If the answer is ”Yes, in part” or “No”, please explain.

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1. Before refusing extradition, does your country consult, where appropriate, with the requesting State to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation (art. 16, para. 16)?

Yes  No

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**B. Mutual legal assistance (article 18)**

1. Does your country respond to requests by the requesting State Party on the progress on its handling of the request in accordance with art. 18, para. 24?

Yes  Yes, in part  No

Please explain.

1. In your country, is mutual legal assistance afforded:

(a) By statute?

Yes  No

and/or

(b) By treaty or other agreement or arrangement (multilateral or bilateral)?

Yes  No

and/or

(c) By virtue of reciprocity or comity?

Yes  No

1. Does your country afford mutual legal assistance with respect to investigations, prosecutions and judicial proceedings in relation to offences covered under this Convention involving legal persons (art. 18, para. 2)?

Yes  No

1. Does your country apply the provisions of article 18 of the Convention, including paragraphs 9 to 29 thereof, in order to provide mutual legal assistance to other States parties to the Convention with which it does not have another mutual legal assistance treaty in force (article 18, para. 7)?

Yes  Yes, in part  No

If the answer is “yes, in part”, please specify which paragraphs would not apply

54bis. Does your country accept or provide mutual legal assistance toregional judicial authorities designated as the central authority by requesting State Parties for the purpose of art. 2 (j) and art. 18 (13)?

Yes  Yes, in part  No

Need to come back to the issue as explained by the EU and China.

1. Which of the following types of mutual legal assistance does your country provide (art. 18, paras. 3):

(a) Taking evidence or statements from persons?

Yes  No

and/or

(b) Effecting service of judicial documents?

Yes  No

and/or

(c) Executing searches and seizures, and freezing?

Yes  No

and/or

(d) Examining objects and sites?

Yes  No

and/or

(e) Providing information, evidentiary items and expert evaluations?

Yes  No

and/or

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records?

Yes  No

and/or

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes?

Yes  No

and/or

(h) Facilitating the voluntary appearance of persons in the requesting State party?

Yes  No

and/or

(i) Any other type of assistance that is not contrary to your domestic law.

Yes  No

Please specify.

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States are invited to share examples of their positive experiences or good practices in applying the Convention regarding any other type of assistance provided under Article 18, para. 3 (i)

1. Does your country permit conducting a hearing by videoconference where it is not feasible or desirable for the witness or expert to appear in person before the judicial authorities of the foreign State (art. 18, para. 18)?

Yes  Yes, in part  No

If “yes, in part” please explain, if possible, please indicate if there are any agreements or arrangements on conducting such hearings

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1. Is bank secrecy a ground for refusal of a mutual legal assistance request under your domestic legal framework (art. 18, para. 8)?

Yes  No

If the answer is “Yes”, please explain in which circumstances bank secrecy can be a ground for refusal of a mutual legal assistance request.

1. Does your country decline to render mutual legal assistance on the ground of absence of dual criminality (art. 18, para. 9)?

Yes  Yes, in part  No

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1. Does your country refuse a mutual legal assistance request on the sole ground that the offence is also considered to involve fiscal matters (art. 18, para. 22)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part” please specify the circumstances under which a request for mutual legal assistance is refused on the sole grounds that the offence is also considered to involve fiscal matters.

1. Are any of the grounds for refusal of a mutual legal assistance request provided for in article 18, paragraph 21, of the Convention applicable in your domestic legal framework?

Yes  Yes, in part  No

60bis. Does your country’s legal framework provide for grounds for refusal of mutual legal assistance request in addition to the ones contained in Article 18, para. 21 (a-d)?

Yes  No

If yes, please explain briefly.

States are invited to share examples of their positive experiences or good practices in applying the Convention on how the provision of mutual legal assistance can be subject to the requirement of double criminality, especially in relation to mutual legal assistance involving coercive and non-coercive measures.

1. Are the requirements of your country’s legal framework for a mutual legal assistance request consistent with the requirements of article 18 paragraph 15?

Yes  No

If you have additional requirements, please consider providing those to the Secretariat.

61alt. Do mutual legal assistance requests emanating from your country contain the information specified in art. 18 (15):

[ Yes  Yes, in part  No]

If yes in part or no, please explain briefly

61bis. Has your country requested or received a request for additional information on the basis that additional information was necessary for the execution of a request in accordance with domestic law or to facilitate execution of such a request? (art. 18, para. 16)

Yes  No

If yes, please explain briefly

1. Is your country able to comply with the requirements set forth in paragraph 17 of article 18, including, to the extent possible under domestic law, in accordance with the procedures specified in the request?

Yes  No

**C. Transfer of criminal proceedings (article 21)**

63. Is your country able to receive or transfer criminal proceedings in particular:

- In the interests of the proper administration of justice

or

* With a view to concentrating the prosecution

Yes  No

States with experience in transferring criminal proceedings are encouraged to describe their experience and/or give an example of best practices.

64. Has your country considered the possibility to transfer criminal proceedings? (Delete: Italy, Japan) (Retain: Russian Fed.)

Yes  No

**D. Transfer of sentenced persons (article 17)**

65. Has your country concluded any bilateral or multilateral agreements or arrangements on the transfer of sentenced persons for offences covered by the Convention (art. 17)?

Yes  No

If yes, please provide an example of such agreements or arrangements[[4]](#footnote-4).

States are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreements or arrangements on the transfer of sentenced persons.

**E. Joint investigations (article 19)**

66. Has your country or competent authorities (UK) entered into any bilateral or multilateral agreement or arrangement whereby, in relation to matters that are the subject of investigation, prosecution or judicial proceedings in one or more States parties, the competent authorities concerned may establish joint investigative bodies (art. 19)? (Retain: Japan, UK)

Yes  No

67. In the absence of any agreement or arrangement of the sort referred to in the question above, does your country permit joint investigations to be undertaken by agreement on a case-by-case basis (art. 19)?

Yes  No

68. Does your domestic legal framework provide a basis for the establishment of joint investigative bodies, based on bilateral or multilateral agreements or arrangements (Italy)?

Yes  No

68 Alt. (USA): Does your country, or competent authorities (UK), participate in the following:

1. Joint investigations

Yes  No

If the answer is yes, is an agreement or arrangement required.

Yes  No

If an agreement or arrangement is required, does an agreement or arrangement on a case by case basis satisfy the requirement?

2. Joint prosecutions

Yes  No

If the answer is yes, is an agreement or arrangement required.

Yes  No

If an agreement or arrangement is required, does an agreement or arrangement on a case by case basis satisfy the requirement?

3. Joint judicial proceedings

Yes  No

If the answer is yes, is an agreement or arrangement required.

Yes  No

If an agreement or arrangement is required, does an agreement or arrangement on a case by case basis satisfy the requirement? (USA)

69. For each of the above, please provide an example of best practice and/or describe your national experience (UK, Italy)

69bis. States are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreements or arrangements for the establishment of joint investigative bodies.

**F. Special investigative techniques (international aspects of   
article 20)**

70. States are invited to provide, where appropriate, information concerning whether they have concluded any bilateral or acceded to any multilateral agreement or arrangement, for the use of special investigative techniques in the context of international cooperation to combat transnational organized crime (art. 20, para. 2)?

1. States are invited to share information about whether, in accordance with their domestic legal framework and in the absence of any agreement or arrangement of the sort referred to in the question above, they permit the use of special investigative techniques at the international level on a case-by-case basis (art. 20, para. 3).

**G. International cooperation for purposes of confiscation (article 13)**

1. Does your country’s legal framework permit confiscation of the proceeds of crime, property, equipment or other instrumentalities referred to in article 12, para. 1, at the request of another State party?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part”, please specify any challenges encountered in confiscating the proceeds of crime at the request of another State party.

72bis. In particular, please specify if your country’s domestic legal framework permits the provision of international cooperation for purposes of confiscation in both conviction and non-conviction based proceedings..

(b) If the answer is “Yes”:

(i) Is the request submitted to the competent authorities of your country for the purpose of obtaining a domestic order of confiscation (art. 13, para. 1 (a))?

Yes  No

(ii) Is the request submitted to the competent authorities of your country for direct enforcement (art. 13, para. 1 (b))?

Yes  No

72ter. Does your country’s legal framework permit confiscation of proceeds of crime that have been transformed or converted into other property (art. 12, para. 3), or intermingled with property acquired from legitimate sources (art. 12, para. 4), at the request of another State party?

Yes  Yes, in part  No

1. Does your country’s legal framework enable the competent authorities to identify, trace and freeze and seize the proceeds of crime, as described under question 25 for the purpose of eventual confiscation, at the request of another State party?

Yes  Yes, in part  No

If the answer is “Yes, in part”, please specify any challenges encountered in identifying, tracing and freezing and seizing the proceeds of crime, at the request of another State party.

1. If any legal grounds for refusal specific to a request for cooperation for the purposes of confiscation are provided for in your country’s legal framework, please explain what those grounds are (article 13, para 3 and 7, article 18, para 21).

1. What information does your country’s legal framework require for inclusion in a request for cooperation for the purposes of confiscation other than those enumerated in article 13, para. 3 and article 18, para. 15 (arts. 13, para. 3,)?

**H. Disposal of confiscated proceeds of crime or property (article 14)**

1. Does country’s legal framework permit the return of confiscated proceeds of crime or property to the requesting State party so that it can give compensation to the victims of the crime or the return of such proceeds of crime or property to their legitimate owners (art. 14, para. 2)?

Yes  Yes, in part  No

If the answer to above question is “Yes, in part”, please explain the manner in which your domestic law permits the return of such confiscated proceeds of crime or property for the purposes stated above.

1. Has your country concluded agreements or arrangements with other States parties on contributing the value of confiscated proceeds of crime or property (or funds derived from the sale of such proceeds of crime or property or a part thereof) to the account designated in accordance with article 30, paragraph 2 (c), and to intergovernmental bodies specializing in the fight against organized crime (art. 14, para. 3 (a))?

Yes  No

1. Has your country concluded agreements or arrangements with other States parties, on a regular or case-by-case basis, on sharing of proceeds of crime (art. 14, para. 3 (b))?

Yes  No

States are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreements or arrangements on disposal or sharing of confiscated assets.

**I. International cooperation against money-laundering (article 7)**

79. Does your country enable the administrative, regulatory, law enforcement or, where appropriate, judicial authorities in charge of efforts against money-laundering to cooperate and exchange information at the international level (art. 7, para. 1 (b))?

Yes  No

If yes, please describe the channels used for that exchange of information.

80. Does your country participate in any global, regional, subregional or bilateral frameworks geared towards promoting cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering (art. 7, para. 4)?

Yes  No

If the answer is “Yes”, please provide some examples.

**J. International law enforcement cooperation (article 27)**

81. Consistent with domestic legal and administrative systems, have the competent authorities of your country established or enhanced, where necessary, channels of communication with their counterparts in other States parties in order to facilitate the secure and rapid exchange of information concerning all aspects of offences covered by the Convention, including, where appropriate, links with other criminal activities (art. 27, para. 1 (a))?

Yes  No

82. Consistent with domestic legal and administrative systems, has your country taken any measures to promote law enforcement cooperation with other States parties in conducting inquiries with respect to offences covered by the Convention (art. 27, para. 1 (b)), in particular in relation to:

(a) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned?

Yes  No

and/or

(b) The movement of proceeds of crime or property derived from the commission of such offences?

Yes  No

and/or

(c) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences?

Yes  No

83. Has your country adopted any measures to provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes (art. 27, para. 1 (c))?

Yes  No

84. Has your country adopted any measures to facilitate effective coordination with law enforcement authorities of other States parties and promote the exchange of personnel or the posting of liaison officers (art. 27, para. 1 (d))?

Yes  No

85. Has your country adopted any measures to promote the exchange of information with other States parties on specific means and methods used by organized criminal groups, including routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities (art. 27, para. 1 (e))?

Yes  No

86. Has your country adopted any measures to promote the exchange of information and the coordination of administrative measures with other States parties for the purpose of early identification of the offences covered by the Convention (art. 27, para. 1 (f))?

Yes  No

87. Has your country entered into any bilateral or multilateral agreement or arrangement on direct cooperation between law enforcement agencies to give effect to the Convention (art. 27, para. 2)?

Yes  No

States are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreement or arrangement on direct cooperation between law enforcement agencies.

88. In the absence of any agreement or arrangement, would your country consider the Convention as the legal basis for mutual law enforcement cooperation in respect of the offences covered by it (art. 27, para. 2)?

Yes  No

1. Has your country been involved within its means in international law enforcement cooperation to combat transnational organized crime committed through the use of modern technology (art. 27, para. 3)?

Yes  No

89Alt.: Has your country endeavoured to cooperate within its means to respond to transnational organized crime committed through the use of modern technology (art. 27, para. 3)? (Switzerland, Russian Fed.)

**V. Prevention, technical assistance and other measures**

**A. Money-laundering (article 7)**

1. Has your country instituted a domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to detect and deter all forms of money-laundering (art. 7, para. 1 (a))?

Yes  No

If the answer is “Yes”, please identify the institutions to which such a regime is applicable.

(a) If the answer is “Yes”, does your country’s regime require:

(i) Customer identification?

Yes  No

If the answer is “Yes”, please specify the customer identification required by your country’s regime.

(ii) Record-keeping?

Yes  No

If the answer is “Yes”, please specify the record-keeping required by your country’s regime.

(iii) Reporting of suspicious transactions?

Yes  No

If the answer is “Yes”, please provide examples on, inter alia, the criteria used for identifying suspicious transactions or the sanctions imposed for non-compliance with reporting requirements.

(iv) Bearing in mind art. 7 (3 and 4), States are invited to provide, on a strictly voluntary basis, additional information relating to deterrents and detection of money laundering, such as customer verification, including by providing assessments and other relevant evaluations or links thereto:

1. Does your country enable the administrative, regulatory, law enforcement or judicial authorities in charge of efforts against money-laundering to cooperate and exchange information at the national level (art. 7, para. 1 (b))?

Yes  No

(a) If the answer is “Yes”, has a financial intelligence unit been established in your country to serve as a national centre for the collection, analysis and dissemination of information related to money-laundering activities?

Yes  No

If the answer is “Yes”, please provide information on the financial intelligence unit established in your country.

1. Has your country implemented measures to detect and monitor the movement of cash and appropriate negotiable instruments across its borders (art. 7, para. 2)?

Yes  No

If the answer is “Yes”, please specify and provide, in particular, any available information on safeguards to ensure the proper use of information and the unimpeded movement of legitimate capital.

**B. Corruption (article 9)**

The review of Article 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not party to the United Nations Convention against Corruption. [States parties that are parties to UNCAC may wish to update the information provided during the UNCAC review] [UK: would this section encompass those parties which have not participated in the UNCAC review mechanism?]

1. Has your country adopted measures to promote integrity and to prevent, detect and punish the corruption of public officials (art. 9, para. 1)?

Yes  No

If the answer is “Yes”, please specify the measures implemented to promote integrity and to prevent, detect and punish the corruption of public officials.

1. Has your country taken measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions (art. 9, para. 2)?

Yes  No

If the answer is “Yes”, please specify the measures implemented to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

**C. Other preventive measures**

1. Has your country established a practice of analysing, in consultation with the scientific and academic communities, trends in organized crime within its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved (art. 28, para. 1)?

Yes  No

If the answer is “Yes”, please provide examples

1. Does your country monitor its policies and actual measures to combat organized crime and make assessments of their effectiveness and efficiency (art. 28, para. 3)?

Yes  No

If the answer is “Yes”, please specify the monitoring and the assessments undertaken by your country.

1. Has your country initiated, developed or improved training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, as well as other personnel charged with the prevention, detection and control of the offences covered by the Convention (art. 29, para. 1)?

Yes  No

If the answer is “yes”, please provide examples

(a) Please also specify whether the following are included in such training programmes:

(i) Secondment and exchanges of staff

Yes  No

(ii) Methods used in the prevention, detection and control of the offences covered by the Convention

Yes  No

(iii) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures

Yes  No

(iv) Monitoring of the movement of contraband

Yes  No

(v) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes

Yes  No

(vi) Collection of evidence

Yes  No

(vii) Control techniques in free trade zones and free ports

Yes  No

(viii) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations

Yes  No

(ix) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology

Yes  No

(x) Methods used in the protection of victims and witnesses

Yes  No

1. Has your country promoted training and technical assistance to facilitate extradition and mutual legal assistance (art. 29, para. 3)?

Yes  No

If the answer is “yes”, please provide examples and/or best practices on promotion of training

If the answer is “yes”, please provide examples and/or best practices on technical assistance.

(a) Please also specify whether the following are included in such training and technical assistance:

(i) Language training

Yes  No

(ii) Secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities

Yes  No

1. Has your country developed any national projects or established and promoted best practices and policies aimed at the prevention of transnational organized crime (art. 31, para. 1)?

Yes  No

If the answer is “Yes”, please provide some examples.

1. In accordance with fundamental principles of its domestic law, has your country adopted measures to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime (art. 31, para. 2), including:

(a) The strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry?

Yes  No

(b) The promotion of the development of standards and procedures designed to safeguard the integrity of public and relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants?

Yes  No

(c) The prevention of the misuse of legal persons by organized criminal groups, in particular by:

(i) The establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons and the exchange of information contained therein?

Yes  No

(ii) The introduction of the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by the Convention from acting as directors of legal persons domiciled in your country’s jurisdiction?

Yes  No

(iii) The establishment of national records of persons disqualified from acting as directors of legal persons and the exchange of information contained therein?

Yes  No

If the answer is “Yes”, States Parties are invited, on a purely voluntary basis, to share their experience/

1. Does your country promote the reintegration into society of persons convicted of offences covered by the Convention (art. 31, para. 3)?

Yes  No

If the answer is “Yes”, please specify the manner in which your country promotes the reintegration into society of persons convicted of offences covered by the Convention.

1. Have your country taken any action to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups (art. 31, para. 4)?

Yes  No

If the answer is “Yes”, please provide examples.

1. Have your country taken any action to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime, as well as public participation in preventing and combating such crime (art. 31, para. 5)?

Yes  No

If the answer is “Yes”, please provide examples.

1. Has your country been involved in collaboration frameworks, projects and/or measures with other States parties or relevant international and regional organizations in order to promote and develop measures to prevent transnational organized crime and, in particular, to alleviate the circumstances that render socially marginalized groups vulnerable to the action of such crime (art. 31, para. 7)?

Yes  No

If the answer is “Yes”, please provide examples of collaboration frameworks, projects and/or measures with other States parties or relevant international and regional organizations.

1. Has your country developed and shared analytical expertise concerning organized criminal activities with other States parties and through international and regional organizations? If so, were common definitions, standards and methodologies developed and applied (art. 28, para. 2)?

Yes  No

If the answer is “Yes”, please provide examples of the sharing of expertise that has been developed by your country and shared by your country with other States parties and through international and regional organization

1. Has your country assisted other States parties in planning and implementing research and training programmes designed to share expertise in the areas referred to article 29, paragraph 1, of the Convention (art. 29, para. 2)?

Yes  No

If the answer is “Yes”, please provide examples.

1. Has your country been involved in efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements (art. 29, para. 4)?

Yes  No

If the answer is “Yes”, please provide best practices/examples

1. Has your country cooperated with developing countries and countries with economies in transition to strengthen their capacity to prevent and combat transnational organized crime, as well as in providing them with technical assistance in order to implement the Convention (art. 30, para. 2)?

Yes  No

If the answer is “Yes”, please provide best practices/examples.

1. Has your country concluded any bilateral or multilateral agreement or arrangement on material and logistical assistance for the prevention, detection and control of transnational organized crime (art. 30, para. 4)?

Yes  No

[Please provide separate answer for each relevant subsection

II – Definition and Criminalization

III – Law enforcement and the judicial system

IV - International cooperation in criminal matters

V – Prevention, technical assistance and other matters]

**VI. Difficulties encountered and assistance required**

**A. Difficulties encountered**

1. Has your country encountered any difficulties or challenges in implementing the Convention? If “yes”, please specify.

Yes  No

Problems with the formulation of legislation

Need for further implementing legislation (laws, regulations, decrees, etc.)

Reluctance of practitioners to use existing legislation

Insufficient dissemination of existing legislation

Limited inter-agency coordination

Specificities of the legal system

Competing priorities for the national authorities

Limited resources for the implementation of existing legislation

Limited cooperation with other States

Lack of awareness of the existing legislation

Other issues (please specify)

111. States are invited to share examples of their positive experiences or good practices in applying the Convention, with particular regard to:

a) the possibility to confiscate companies and corporate assets where proceeds of crime are intermingled with property acquired from legitimate sources;

b) the possibility to confiscate legal rights and interests of an enforceable nature;

c) the use of non-conviction based confiscation and the related international judicial cooperation;

**B. Need for technical assistance**

112. Does your country require technical assistance to overcome difficulties in implementing the Convention?

Yes  No

(a) If the answer is “Yes”, please specify the type of technical assistance needed.

(b) Which of the following forms of technical assistance, if available, would assist your country in fully implementing the provisions of the Convention? In identifying the forms of technical assistance as listed below, please also indicate for which provisions of the Convention such assistance would be needed.

Legal advice

Legislative drafting support

Model legislation/regulation(s)

Model agreement(s)

Standard operating procedures

Development of strategies/policies, including action plans

Dissemination of good practices/lessons learned

Capacity-building through the training of practitioners or trainers

On-site assistance by a mentor or relevant expert

Institution-building, or the strengthening of existing institutions

Prevention and/or awareness-raising

Technological assistance

Establishment or development of IT infrastructure, such as databases or communication tools

Measures to enhance regional cooperation

Measures to enhance international cooperation

Other assistance (please specify)

[Please provide separate answer for each relevant subsection

II – Definition and Criminalization

III – Law enforcement and the judicial system

IV - International cooperation in criminal matters

V – Prevention, technical assistance and other matters

**VII. Other information**

113. Please provide any other information you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider at the present stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

113bis. Please provide any information how (if – Spain) you have engaged with civil society regarding aspects of, or difficulties in, implementing the Convention. (UK) (Delete: Russian Fed., Iran)

1. Proceeds of crime shall mean any property derived from or obtained, directly or indirectly, through the commission of those offences. [↑](#footnote-ref-1)
2. Offences covered under the Convention include those established pursuant to the relevant Protocols to which the State is a party . [↑](#footnote-ref-2)
3. “Set forth in the Convention” refers to the offences included in article 3 para. 1 (a) and (b) of the United Nations Convention against Transnational Organized Crime, as well as in article 4 of each of the supplementary Protocols, by virtue of article 1, para. 2 of each Protocol. [↑](#footnote-ref-3)
4. Countries are invited to upload relevant agreements or arrangements to SHERLOC [↑](#footnote-ref-4)