



## UNCAC CHAPTER IV – INTERNATIONAL COOPERATION

Corruption does not respect territorial boundaries. It therefore requires an international response, because of its potential links to transnational organized crimes. Countries now recognize the need for action that goes beyond borders and acknowledges the benefits of cooperation and the sharing of information.

The United Nations Convention against Corruption (UNCAC) is the world's only legally-binding, anti-corruption instrument, to which UNODC is the guardian. The Convention was adopted by the General Assembly in October 2003 and entered into force in December 2005. To date, there are 190 States parties to UNCAC, representing a groundbreaking commitment to tackle corruption.

UNCAC Chapter IV seeks to facilitate international cooperation and outlines States parties' obligations. Countries are required to provide support to requests for extradition and mutual legal assistance (MLA), including the arrest and detention of offenders, and the gathering and transferring of evidence for its use in court proceedings. Countries must also take steps to support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

**Extradition** is the surrender by one State, at the request of another, of a person who is accused of, or has been sentenced for, a crime committed within the jurisdiction of the requesting State. The Convention sets out the obligations for extradition that apply to States parties.

The Convention uses a conduct-based definition of dual criminality that maximizes the range of offences subject to extradition, so long as the requirement of dual criminality is met under a State's domestic legal system.

If the conduct for which extradition is sought is punishable by law in both the requesting and the requested States, extradition applies. In addition, a State can agree to extradite a person for an UNCAC offence that is not punishable under its own law (e.g., if the law is silent on this). If a State

**Mutual legal assistance (MLA)** is one of the most decisive tools that States have to fight serious transnational crime. For MLA requests to be effective, they often need to be generated quickly and in such a way as to avoid legal obstacles that can arise when criminal justice practitioners from different legal systems attempt to work together.

UNCAC tries to simplify arrangements for countries by allowing the Convention to be used as a legal basis for extradition, as well as for MLA and law enforcement cooperation. This means that a State does not need to have or create agreements with other States specifically for the purposes of meeting these obligations under UNCAC, but rather can rely on the **Convention itself as the legal basis for action** arising from any offence covered by the Convention.

does not agree to another State's request to extradite a person, it is submit the case to its own authorities for prosecution. UNCAC aims to avoid safe havens on the grounds of nationality and requires States to prosecute their nationals (*aut dedere aut judicare*).

States parties must offer one another broad **mutual legal assistance** in investigations, prosecutions and judicial proceedings arising from UNCAC offences, including for:

- Taking evidence or statements from persons;
- Affecting service of judicial documents;
- Executing searches and seizures;
- Examining objects and sites;
- Providing information, evidentiary items and expert evaluations;
- Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- Identifying or tracing the proceeds of crime, property, or other things for evidentiary purposes;



- Facilitating the voluntary appearance of persons in the requesting State party; and
- Identifying, freezing and tracing the proceeds of crime and the recovery of assets.

States parties are also required to designate a central authority that can receive and execute MLA requests and ensure that such requests are dealt with quickly and properly.

States may consider entering into bilateral or multilateral agreements regarding the **transfer of sentenced persons** to their territory to carry out their sentences. Another option to consider is the **transfer of criminal proceedings** to another State for the prosecution of an offence if that best advances the administration of justice, particularly in cases where several jurisdictions are involved.

The Convention requires close **law enforcement cooperation** between States to enhance the effectiveness of action to combat corruption offences, including by:

- Establishing or enhancing existing channels of communication between authorities to facilitate the secure and rapid exchange of offence-related information; and
- Cooperating to conduct enquiries concerning individuals suspected of being involved in UNCAC offences and the movement of the proceeds of crime or property.

The Convention requires States to consider establishing MLA arrangements or amending existing arrangements to give effect to the Convention. UNCAC further requires States to consider establishing joint investigative bodies or conduct **joint investigations** on a case-by-case basis, where matters arise that are the subject of investigations, prosecutions, or judicial proceedings in one or more States.

Established by UNODC, the Global Operation Network of Anti-Corruption Law Enforcement Authorities (GlobE Network) offers a platform for information exchange between frontline anti-corruption law enforcement practitioners in all countries across the globe. This one-stop virtual hub provides the knowledge, resources and tools needed to track, investigate and prosecute cases of cross-border corruption, including a decision tree and secure communications channels.

Authorities from Indonesia, Malaysia, Thailand and Viet Nam are members of the GlobE Network.

### ASEAN Political-Security Community Blueprint 2025

The Blueprint adopts a comprehensive approach to security, with a focus on building a rules-based, people-oriented, people-centred, outward-looking community that upholds and strengthens ASEAN centrality in an evolving region.

The Blueprint recognizes the need for good governance, rule of law and combating corruption. This requires instilling and mainstreaming the culture of integrity and anti-corruption into the policies and practices of the ASEAN community, including by promoting ASEAN cooperation in implementing UNCAC.

### ASEAN Plan of Action in Combating Transnational Crime (2016 - 2025)

The Plan of Action contributes to the realization of the Political-Security Community Blueprint.

As a priority, the Plan of Action encourages ASEAN Member States to adopt national strategies and action plans to combat transnational crimes. Another priority is to enhance cooperation and coordination among ASEAN law enforcement agencies, such as through the exchange of information and intelligence and undertaking joint investigations.

Finally, States are required to consider the use of **special investigative techniques**, such as electronic or other forms of surveillance and undercover operations, and to allow for the admissibility in court of the evidence derived from these activities.

Chapter IV seeks to eliminate hiding places for those engaged in corrupt activity. It binds countries to cooperate in the prevention, investigation, and prosecution of corruption. Chapter V on asset recovery goes one step further by requiring States to recover and return assets that are obtained corruptly. This ensures that there is no hiding place for assets derived from corruption.

The full text of UNCAC Chapter IV is available at [https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

