



**Permanent Mission of the United Republic of Tanzania
to the United Nations**

Check Against Delivery

**SUBMISSION OF THE UNITED REPUBLIC OF TANZANIA TO THE UNITED NATIONS
ON A COMPREHENSIVE INTERNATIONAL CONVENTION ON COUNTERING THE
USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL
PURPOSES**

**PROVISIONS ON INTERNATIONAL COOPERATION, TECHNICAL
ASSISTANCE, PREVENTION MEASURES, MECHANISM OF IMPLEMENTATION AND
FINAL PROVISIONS**

1ST JULY, 2022 VIENNA, AUSTRIA

1. Introduction

The United Republic of Tanzania (URT) submits the following proposals on the chapters of International Cooperation, Technical Assistance, Preventive Measures, Mechanism of Implementation and Final Provisions in line with the road map and mode of work for the Ad Hoc Committee. The submission which includes general observations and proposals on drafting suggestions on the chapters under consideration is without prejudice to any future contributions that URT may make during negotiations.

URT recognises that, cybercrime is an emerging form of transnational crime which is exacerbated by the evolution and exponential development of Information and Communication Technologies (ICT). It is evident that, efforts to combat such crimes cannot be restricted to national borders. We reiterate our previous submission that the spike of crimes committed through the use of ICTs and their interconnectedness with other forms of organised crimes such as terrorism, drug trafficking and Trafficking in Persons give us a compelling reason to continue the elaboration process and conclude this proposed Convention at the earliest possible opportunity.

URT echoes the UN General Assembly Resolution 74/247 that called upon the Ad Hoc Committee to take into full consideration existing international instruments. In that regard, URT aligns itself with the views of the majority of Member States that, the Ad Hoc Committee should adopt formulation in the existing international instruments particularly the United Nations Convention Against Transnational Organised Crime, 2000 (UNTOC) and the United Nations Convention Against Corruption, 2003 (UNCAC).

2. Provisions on International Cooperation

The United Republic of Tanzania submits that, the fundamental objective of this chapter should be to promote international cooperation in countering the use of ICTs for Criminal Purposes. The Chapter should include general principles under existing international instruments and other universally acceptable norms. Further consideration should be given to the dual criminality prerequisite prior to making of requests. The proposed Convention should allow for refusal of a request if such a request relates to the prosecution or penalty

of an act or omission, which would not have constituted an offence if it had occurred in requested State. Similarly, the request may also be declined if it relates to an act or omission which, if it had occurred in requested State at the same time and had constituted an offence against the law of the said State, the suspect could have no longer been prosecuted by the operation of legal principles such as age, immunity, or privileges.

However, the requirement of dual criminality should be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties. Nonetheless, under exceptional circumstances, the Convention should allow States to provide assistance to the extent of their own discretion and to the extent permitted by their domestic laws, irrespective of whether the act or omission would constitute an offence under its domestic law.

2.1 Extradition

On provisions relating to extradition, the Convention should have due regard to the following principles: -

- (a) The Requested State may, at its discretion and subject to the provisions of its domestic law, consider the future Convention as the legal basis for extradition in respect of offences under the Convention where there is no extradition treaty between the requesting and requested State.
- (b) Where State Parties do not make extradition conditional on the existence of a treaty, they shall recognise offences under the future Convention as extraditable subject to the provisions relating to dual criminality.
- (c) The extradition under the convention should get rid of the tradition approach of listing extraditable offences rather the focus should base on dual criminality principle.
- (d) Requests for extradition shall be subject to the provisions and legal requirements provided for by domestic laws of the requested State Parties or existing extradition

treaties including provisions relating to the minimum penalty requirement for extradition and grounds upon which the extradition request may be declined.

2.2 Transfer of Sentenced Persons

URT proposes inclusion of a provision which would encourage Member States to enter into bilateral or multilateral agreements on the transfer of sentenced persons. Thus, we propose adoption of formulation in Article 17 of UNTOC and Article 45 of UNCAC.

2.3 Mutual Legal Assistance

On the provisions relating to Mutual Legal Assistance (MLA), the proposed Convention should build on existing mechanisms which foster widest measures of cooperation in investigations, prosecutions and judicial proceedings in relation to the offences to be covered by the Convention. Provision of such assistance should also extend to the tracing, freezing, confiscation and repatriation of assets to the requesting State. Further, the Convention should take into consideration the following: -

- (a) The need to put in place a mechanism which would allow spontaneous transmission of information by one State Party to another, *suo moto*, if such information would assist the receiving State Party in initiating or carrying out investigations or criminal proceedings.
- (b) The need to put in place a mechanism which would allow for expeditious transmission of requests in urgent cases. Such a mechanism may allow for electronic transmission of requests subject to the provisions of domestic laws of States including the requirement of submission of original hard copy of the request before completion of the execution, authentication and requisite security measures.
- (c) The need to put in place a mechanism which would allow designated Central Authorities to communicate directly with one another to the extent permitted by domestic laws of Member States
- (d) Compliance with the Rule of Specialty by limiting usage of evidence for purposes other than those stipulated in the request and the mandatory requirement of seeking and obtaining consent of the requested State prior to transmission of

evidence to the third Parties. Further consideration should be given to the need of keeping the information or requested materials confidential at the instance of the requesting or requested State.

- (e) Provision of mutual legal assistance should be subject to conditions provided by the domestic laws of the requested States or existing bilateral or multilateral agreements including grounds on which the request may be refused. Provided that, States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters or bank secrecy.
- (f) Mutual Legal Assistance to be afforded in accordance with the provision of the Convention may be requested for any of the following purposes: -
 - (i) Expedited preservation of stored computer data
 - (ii) Expedited disclosure of preserved traffic data
 - (iii) Access of stored computer data
 - (iv) Identifying, tracing, freezing and confiscating proceeds or instrumentalities of crime
 - (v) Registration of foreign restraint or confiscation orders including return of assets subject to execution of necessary agreements such as Asset Sharing agreements
 - (vi) Joint Investigations subject to bilateral or multilateral agreements to be concluded
 - (vii) Law enforcement cooperation subject to bilateral or multilateral agreements to be concluded

Subject to consensus on procedural measures to be covered by the future Convention, requests may also be made on interception of content data and real-time collection of traffic data

3. Technical Assistance

Member States capabilities and capacities in preventing and combating crimes perpetrated through the use of ICTs and other related organised crimes countries differ due to disparities in economic and technological levels. For the international community to address cybercrimes effectively and efficiently, there should be a mechanism for Member

States to consider affording one another the widest measure of technical assistance specifically to developing countries. Such assistance may include financial and material assistance as well as capacity building training in fields of ICTs and Cybersecurity. URT is of the view that, the provisions on training and technical assistance should cover the following areas: -

- (a) Effective measures to prevent, detect and investigate cybercrimes including the use of evidence-gathering and investigative methods;
- (b) Routes and techniques used by persons suspected of involvement in offences covered by the Convention, including in third party States, and appropriate counter-measures;
- (c) Collection of evidence;
- (d) 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;
- (e) Modern law enforcement equipment and techniques including electronic surveillance, controlled deliveries and undercover operations;
- (f) Methods used in combating organised crimes committed through the use of computers, telecommunications networks or other forms of modern technology;
- (g) Training appropriate authorities in the preparation of requests for mutual legal assistance that meet the requirements of the Convention;
- (h) Evaluation and strengthening of relevant institutions;
- (i) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of offences established in accordance with the Convention;
- (j) Methods used in protecting victims and witnesses who cooperate with judicial authorities; and

(k) Training in national and international regulations and in languages.

4. Preventive Measures

In order to effectively prevent and combat the use of ICTs for criminal purposes, it is essential to adopt different measures that will act as a shield to deter criminals from committing cybercrimes or to empower state' institutions to detect and stop the commission at the earliest stage. Preventive measure should focus on the following:

- (a) Measures to enhance cooperation with law enforcement authorities
- (b) Collection, exchange and analysis of information on the nature of cybercrimes
- (c) Participation of the society
- (d) Cooperation between the national authorities and private sector.

5. Mechanism of Implementation

For effective and efficient implementation of the Convention, we propose inclusion of the provisions consistent with formulation under the UNTOC and UNCAC. We propose provisions relating to:-

- (a) Conference of the Parties;
- (b) Secretariat; and
- (c) Requirement for Member States to take necessary legislative and administrative measures to ensure implementation of their obligations under the Convention.

6. Final Provisions

In line with existing formulation in existing United Nations Conventions, the Convention should contain provisions relating to: -

- (a) Settlement of Dispute;
- (b) Signature, ratification, acceptance, approval and accession;
- (c) Reservations;
- (d) Relation with Protocols;
- (e) Entry into force;
- (f) Amendment;
- (g) Denunciation; and
- (h) Depository and Languages

7. Conclusion

The United Republic of Tanzania reaffirms its commitment to strengthen cooperation with other Member States and in discharging its obligations under existing United Nations Conventions with a view to preventing and suppressing cybercrimes. We reiterate our views on the need for Member States to try as much as possible to strike a balance, converge and attain common ground on matters under consideration with a view of attaining consensus to achieve the intended objectives. We further express our readiness and commitment to continue engaging in an open, inclusive and transparent manner in this elaboration process.

DRAFTING SUGGESTIONS

International Cooperation

[Article 43 of UNCAC]

1. States Parties shall cooperate in criminal matters in accordance with articles [...] of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.
2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties. [Article 43 of UNCAC]

Extradition

[Article 16 of UNTOC]

1. This article shall apply to the offences covered by this Convention or in cases where an offence referred to in article [..], paragraph [...] involves an organized criminal group and the person who is the subject of the request for extradition is located in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.
2. If the request for extradition includes several separate serious crimes, some of which are not covered by this article, the requested State Party may apply this article also in respect of the latter offences.
3. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.
5. States Parties that make extradition conditional on the existence of a treaty shall:
 - (a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations

whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

- (b) If they do not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.
6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.
 7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.
 8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.
 9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.
 10. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.
 11. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.
 12. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested Party shall, if its

domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.
14. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.
15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.
16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.
17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Transfer of sentenced persons

[Article 17 of UNTOC & Article 47 of UNCAC]

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences covered by this Convention, in order that they may complete their sentences there.

Mutual legal assistance

[Article 18 of UNCAC]

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article [...] and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article [...], paragraph [...], is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.
3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
 - (a) Taking evidence or statements from persons;
 - (b) Effecting service of judicial documents;
 - (c) Executing searches and seizures, and freezing;
 - (d) Examining objects and sites;
 - (e) Providing information, evidentiary items and expert evaluations;
 - (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
 - (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
 - (h) Facilitating the voluntary appearance of persons in the requesting State Party; and
 - (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.
4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.
5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.
6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.
8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.
10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:
 - (a) The person freely gives his or her informed consent;
 - (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate
11. For the purposes of paragraph 10 of this article:
 - (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;
 - (b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;
 - (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;
 - (d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.
12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her

nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.
14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.
15. A request for mutual legal assistance shall contain:
 - (a) The identity of the authority making the request;
 - (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
 - (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
 - (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
 - (e) Where possible, the identity, location and nationality of any person concerned; and
 - (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.
17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.
18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.
19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.
21. Mutual legal assistance may be refused:
 - (a) If the request is not made in conformity with the provisions of this article;
 - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
 - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
 - (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
23. Reasons shall be given for any refusal of mutual legal assistance.
24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.
27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.
28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.
29. The requested State Party:
 - (a) provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

- (b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.
30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Joint investigations

[Article 19 of UNTOC & Article 49 of UNCAC]

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Transfer of criminal proceedings

[Article 21 of UNTOC & Article 47 of UNCAC]

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Law enforcement cooperation

[Article 27 of UNTOC & Article 48 of UNCAC]

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:
 - (a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

- (b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:
 - (i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;
 - (ii) The movement of proceeds of crime or property derived from the commission of such offences;
 - (iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
 - (c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;
 - (d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;
 - (e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;
 - (f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.
2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.
3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

Training and technical assistance
[Article 29 of UNTOC]

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the

prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

- (a) Methods used in the prevention, detection and control of the offences covered by this Convention;
 - (b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;
 - (c) Monitoring of the movement of contraband;
 - (d) 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;
 - (e) Collection of evidence;
 - (f) Control techniques in free trade zones and free ports;
 - (g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;
 - (h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and
 - (i) Methods used in the protection of victims and witnesses.
2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.
 3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.
 4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

Other measures: implementation of the Convention through economic development and technical assistance

[Article 30 of UNTOC & Article 62 of UNCAC]

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of organized crime on society in general, in particular on sustainable development.
2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:
 - (a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat transnational organized crime;
 - (b) To enhance financial and material assistance to support the efforts of developing countries to fight transnational organized crime effectively and to help them implement this Convention successfully;
 - (c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to the aforementioned account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;
 - (d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.
3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.
4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of transnational organized crime.

Measures to enhance cooperation with law enforcement authorities

[Article 26 of UNTOC]

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:
 - (a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:
 - (i) The identity, nature, composition, structure, location or activities of organized criminal groups;
 - (ii) Links, including international links, with other organized criminal groups;
 - (iii) Offences that organized criminal groups have committed or may commit;
 - (b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.
2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.
3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.
4. Protection of such persons shall be as provided for in article [...] of this Convention.
5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Collection, exchange and analysis of information on the nature of organized crime

[Article 28 of UNTOC & Article 61 of UNCAC]

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.
3. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

Implementation of the Convention

[Article 65 of UNCAC]

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.
2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating transnational organized crime.

Conference of the State Parties to the Convention

[Article 63 of UNCAC]

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.
2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference of the States Parties shall be held in accordance with the rules of procedure adopted by the Conference.
3. The Conference of the States Parties shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.
4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:
 - (a) Facilitating activities by States Parties under articles [...]and chapters [.. to...] of this Convention, including by encouraging the mobilization of voluntary contributions;

- (b) Facilitating the exchange of information among States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information as mentioned in this article;
 - (c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;
 - (d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;
 - (e) Reviewing periodically the implementation of this Convention by its States Parties;
 - (f) Making recommendations to improve this Convention and its implementation;
 - (g) Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.
5. For the purpose of paragraph 4 of this article, the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the States Parties.
6. Each State Party shall provide the Conference of the States Parties with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.
7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Secretariat

[Article 33 of UNTOC & Article 64 of UNCAC]

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the Parties to the Convention.
2. The secretariat shall:

- (a) Assist the Conference of the Parties in carrying out the activities set forth in article 32 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the Parties;
- (b) Upon request, assist States Parties in providing information to the Conference of the Parties as envisaged in article [...], paragraph [...], of this Convention; and
- (c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Settlement of disputes

[Article 35 of UNTOC & Article 66 of UNCAC]

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Signature, ratification, acceptance, approval and accession

[Article 36 of UNTOC & Article 67 of UNCAC]

1. This Convention shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Head- quarters in New York until 12 December 2002.
2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done

likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Relation with protocols

[Article 37 of UNTOC]

1. This Convention may be supplemented by one or more protocols.
2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.
3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.
4. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

Entry into force

[Article 68 of UNCAC]

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument.

Amendment

[Article 39 of UNTOC & Article 69 of UNCAC]

1. 1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to

the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Denunciation

[Article 40 of UNTOC]

1. State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.
3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

Depositary and languages

[Article 41 of UNTOC & Article 71 of UNCAC]

1. The Secretary-General of the United Nations is designated depositary of this Convention.
2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.