
**Working Group of Government
Experts on Technical Assistance**
Vienna, 28-31 May 2018

**Working Group on International
Cooperation**
Vienna, 28-31 May 2018

Rolling text of the draft questionnaire for the review of the implementation of the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (31.5.2018 6.00 PM)

Circulated at the request of the Chair of the ninth session of the Working Group on International Cooperation and the eleventh session of the Working Group of Government Experts on Technical Assistance, held from 28 to 31 May 2018¹

General guidance for replying to the questionnaire

- States are requested, if they have not yet provided the documents to the Secretariat, to upload through the Secretariat 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 requested to specify the applicable legislation and relevant provisions under each question to which the answer is “Yes”.
- States are requested to refrain from attaching any annexes, including hard copies of documentation, to the completed questionnaires.

¹ On the margins of the sessions of the Working Groups, a “mapping exercise” was carried out, upon request of the Chair, and with the voluntary participation of some States parties, to indicate throughout the text of the questionnaire which questions relate to mandatory provisions of the Convention, which ones to non-mandatory provisions and which ones to provisions that require judgmental evaluation. This exercise took place only for the purpose of facilitating deliberations and with no further intention to provide or suggest specific qualifications of the requirements set forth in the provisions and accordingly reflected in the queries of the questionnaire.

During this “mapping exercise” on the margins of the sessions, the following questions of the draft questionnaire were covered: 6, 11-21, 23-24, 27, 29-33, 35, 37-39, 41-42, 44, 48, 50-58, 60-64.

Bearing also in mind the relevant deliberations under the joint agenda item of the two Working Groups, the Secretariat undertook to complete this mapping exercise after the sessions covering the rest of the questions. In this context, the classifications of questions as “mandatory” or “non-mandatory” followed the same criteria used during the second reading of the draft questionnaire by the Working Groups and does not reflect the views of the Secretariat regarding the binding or non-binding nature of any provision of the Convention.

- [If information on the implementation of certain articles has already been provided [elsewhere (USA)] [in the review process of the UNCAC and the response to it has been disclosed on the UNODC website (Japan) (Italy)], the responding State party may wish to indicate [replace “indicate” with “copy” (Norway)] this here and state where such information may be found (Secretariat), [with the necessary updates when exist (Japan) (Italy)]. [USA: open issue for further consideration]

The responding State party may wish to provide examples and/or best practices with regard to the measures taken to maximize the effectiveness of law enforcement agents with regards to the need to deter the commission of such offences? (art. 11 paragraph 2) to maximize the effectiveness of law

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to implement article 16 paragraph 5 (b). If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to carry out or to enhance the effectiveness of extradition (art. 16, para. 17). If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list of any bilateral and/or multilateral agreements or arrangements concluded by the State party to that would serve the purpose of giving practical effect to or enhance the provisions of article 18. If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to implement article 14 para 3. If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to implement article 7, para. 1 b). If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to implement article 24, para 3. If such texts are publicly available, please provide a link to the most relevant information.

The responding State party may wish to provide a list or examples of bilateral and/or multilateral agreements or arrangements concluded by the State party to implement article 30, para 4. If such texts are publicly available, please provide a link to the most relevant information.

I. General information

1. According to your country's legal system, can the Convention be applied directly or does it need implementing legislation?

2. **[Mandatory]** Has your country designated a Central Authority pursuant to article 18 paragraph 13?

Yes No

3. **[Mandatory]**² Has your country designated an authority pursuant to article 31 paragraph 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

4. Does your country's legislation include the definitions set forth in article 2?

Yes No

5. Does your legislation permit your country to comply with the obligations of the Convention without adopting specific definitions?

Yes No

If not, please explain:

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

² **Note by the Secretariat for purely explanatory purposes:** In comparison with article 18, paragraph 13, of the UNTOC which contains an obligation to both designate a central authority to deal with MLA requests and notify accordingly the Secretary-General of the United Nations, article 31, paragraph 6 contains an obligation only to inform the Secretary-General of the United Nations of the name and address of the authority/ies that can assist other States parties in developing measures to prevent transnational organized crime. The "obligation to inform" is viewed here as a second step, following an "obligation to put in place" the relevant authority/ies.

6. **[Mandatory]** Is participation in an organized criminal group criminalized under your domestic legislation?

Yes Yes, in part No

If the answer is “Yes”, does participation in an organized criminal group consist of:

(a) 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, and involving 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

and/or

(b) 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, as well as 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

7. **[Mandatory]** 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

8. **[Mandatory]** If the answer to any of questions 6 and/or 7 is “Yes, in part”, please provide information on which part of the provision is not covered by existing legislation.

9. **[Mandatory]** If your country responded yes to question 6 (a) above, does your legislation additionally require the establishment of an act in furtherance of the agreement or the involvement of an organized criminal group?

10. **[Mandatory]** If the answer to question 9 is “yes”, has your country so informed the Secretary-General of the United Nations as required in paragraph 3 of article 5?

Yes No

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

11. **[Mandatory]** Is the laundering of proceeds of crime criminalized under your domestic 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 legislation.

(b) **[Mandatory]** 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 legislation to the offence of money-laundering (art. 6, para. 2 (a) and (b))?

Yes Yes, in part No

(c) 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 legislation to the offence of money-laundering.

12. **[Mandatory]** Does your legislation require that the predicate offences be committed in your country or also include offences committed outside your country?

Yes Yes, in part No

If the answer is “Yes, in part”, please specify the manner in which your legislation requires that the predicate offences be committed in your country or includes offences committed outside of your country.

13. **[Mandatory]** Are the acquisition, possession and use of property known at the time of receipt to be the proceeds of crime, criminalized under your domestic legislation (art. 6, subpara. 1 (b) (i))?

Yes Yes, in part No

If the answer to the question above is “Yes, in part”, please explain how your country’s domestic legislation criminalizes these acts.

14. **[Mandatory]** 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 domestic legislation (art. 6, subpara. 1 (b) (ii))?

Yes Yes, in part No

If the answer to the question above is “Yes, in part”, please explain how your country’s domestic legislation criminalizes these acts.

15. **[Non-mandatory]**³ Does the legislation of your country permit the prosecution and punishment of an offender who committed the predicate offense for the offense of laundering of proceeds from that offence (art. 6, para. 2 (e))?

Yes Yes, in part No

D. Criminalization of corruption (article 8)

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

³ The use of the term “non-mandatory” refers to questions that are based on provisions of the Convention that are either non-mandatory, or whose evaluation is judgemental in nature, thus benchmarks for technical evaluation of it by third parties would not be easily set (Japan).

against Corruption. [States parties that are parties to UNCAC may wish to update the information provided during the UNCAC review (United States)]

16. **[Mandatory]** Is active bribery of a public official criminalized under your domestic legislation (art. 8, para. 1 (a))?

Yes Yes, in part No

If the answer is “Yes, in part”, please specify the manner in which bribery of a public official is criminalized under your domestic legislation.

17. **[Mandatory]** Is passive bribery of a public official criminalized under your domestic legislation (art. 8, para. 1 (b))?

Yes Yes, in part No

18. **[Non-mandatory]** Is bribery involving a foreign public official or international civil servant criminalized under your domestic legislation (art. 8, para. 2)?

Yes Yes, in part No

If the answer is “Yes, in part”, please explain the manner in which bribery involving a foreign public official or international civil servant is criminalized under your domestic legislation.

19. **[Mandatory]** Is participation as an accomplice in bribery offences criminalized under your domestic legislation (art. 8, para. 3)?

Yes No

E. Criminalization of obstruction of justice (article 23)

20. **[Mandatory]** Is obstruction of justice criminalized under your domestic legislation in accordance with article 23 of the Convention?

Yes Yes, in part No

If the answer is “Yes, in part”, please specify the manner in which obstruction of justice is criminalized under your domestic legislation.

III. Law enforcement and the judicial system

A. Liability of legal persons (article 10)

21. **[Mandatory]** Is liability of legal persons established under your domestic legislation 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

and/or

(ii) Civil?

Yes No

and/or

(iii) Administrative?

Yes No

(iv) What kind of sanctions are provided for in your country's legislation?
Please list them.

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

22. **[Mandatory]** 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

23. **[Non-mandatory]** If your country has adopted legislative or other measures to take into consideration, where appropriate, any previous conviction in another country of an alleged offender for the purpose of using such information in criminal proceedings relating to offences covered by the Convention, please provide a copy of such legislation or other measures to the Secretariat (art. 22)

24. **[Mandatory]**⁴ Has your country established, where appropriate, a long statute of limitations period for offences 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

If the answer is "Yes, in part" or "No", please specify the type of measures adopted by your country

25. **[Mandatory]** 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)

⁴ This question may call for subjective analysis.

26. **[Mandatory]** Does your domestic legislation enable confiscation of:
- (a) Proceeds of crime derived from offences covered by the Convention (art. 12, para. 1 (a))?
- Yes No
- (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
- (e) Income or other benefits derived from items described under (a), (c) and (d) above (art. 12, para. 5)?
- Yes No
27. **[Mandatory]** Does your domestic legislation enable the identification, tracing, freezing or seizure of items described above for the purpose of eventual confiscation (art. 12, para. 2)?
- Yes No
28. **[Non-mandatory]** Does your domestic legislation 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
29. **[Mandatory]** Does your domestic legislation 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)

30. **[Mandatory]** 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.

31. **[Mandatory]** 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).

32. **[Non-mandatory]** Does your national legislation 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)

33. **[Mandatory]** Does your country’s legal system enable the 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

34. **[Mandatory]** If the answer to question 33 is “Yes”, does your country’s legal system extend protection to relatives of witnesses or other persons close to them?

Yes No

If the answer is “Yes”, please specify the manner in which your country’s legal system extends protection to relative of witnesses or other persons close to them.

35. **[Non-mandatory]** If the answer to question 33 is “Yes”, does your country’s legal system 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 country’s legal system, 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 country’s legal system, if any, and related to the protection of basic rights of the defendant on the one hand and implementing protective measures for witnesses.

36. **[Mandatory]** (Does your country’s legislation enable the provision of assistance to and protection of victims of offences covered by the Convention, in particular in cases of threat of retaliation or intimidation (art. 25, para. 1)?)

Yes No

37. **[Mandatory]** Does your country’s legislation establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by the Convention (art. 25, para. 2)?

Yes No

If the answer is “Yes”, please specify the appropriate procedures to provide access to compensation and restitution for victims of offences covered by the Convention.

38. **[Mandatory]** Does your country’s legislation enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders involved in organized criminal activities (art. 25, para. 3)?

Yes No

39. **[Non-mandatory]** Has your country entered into any bilateral or multilateral agreement or arrangement with other States for the relocation of witnesses and/or victims, insofar as they are witnesses, in order to ensure their physical protection from potential retaliation or intimidation (art. 24, para. 3)?

Yes No

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

40. **[Mandatory]** Does your country's domestic legal system, 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

(b) Electronic or other forms of surveillance?

Yes No

and/or

(c) Undercover operations?

Yes No

If the answer to any or all of the parts of question 40 is "Yes", please provide any available information on specific conditions prescribed by your country's legislation under which the use of special investigative techniques is permitted.

41. **[Mandatory]** 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

[Non-mandatory] If the answer to the above question is "Yes", does your country's domestic legal system 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

[Non-mandatory] If the answer to question 41 is "Yes", does your country's legal system 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

42. **[Non-mandatory]** With regard to question 41, 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)

43. 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

44. **[Mandatory]** If your answer to 43(b) is “yes”, does your country use the Convention as the 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

Have you communicated so to the Secretary General of the United Nations?

Yes No

45. **[Non-mandatory]** If your answer to question 44 is “No”, has your country, in appropriate cases, sought to conclude treaties on extradition (art. 16, para. 5 (b))?

Yes No

46. **[Mandatory]** If in your country extradition is conditional on the existence of a treaty, have the offences set forth in the Convention⁵ in practice been deemed to be extraditable offenses in bilateral or multilateral treaties (art. 16, para. 3)?

Yes Yes, in part No Not applicable

47. **[Mandatory]** 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

48. **[Non-mandatory]** What are the conditions provided for in your country for granting extradition, including the minimum penalty requirement (as the threshold to

⁵ “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.

identify extraditable offences) and the grounds on which the requested State may refuse extradition (art. 16, para. 7)? Please specify.

49. **[Mandatory]** 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.

50. **[Non-mandatory]**⁶ Does your domestic legal system 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.

51. **[Non-mandatory]**⁷ Are simplified extradition proceedings available in your country to expedite extradition proceedings (art. 16, para. 8)?

Yes Yes, in part No

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

52. **[Mandatory]** 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.

53. **[Non-mandatory]** Does your domestic legal system permit extradition of your nationals to another country?

Yes Yes, in part No

If the answer is “yes, in part”, please specify.

⁶ This question may call for subjective analysis.

⁷ This question may call for subjective analysis.

54. **[Mandatory]** 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

55. **[Non-mandatory]** 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

56. **[Non-mandatory]** Is conditional surrender in accordance with article 16, paragraph 11, of the Convention available in your country?

Yes No

57. **[Non-mandatory]** If your country does not extradite its nationals, does your domestic legal system permit 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.

58. **[Mandatory]** 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

B. Mutual legal assistance (article 18)

59. 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

60. **[Mandatory]** 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

61. **[Mandatory]** 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

62. **[Mandatory]** 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) **[Non-mandatory]** Any other type of assistance that is not contrary to your domestic law and please list or specify.

63. **[Non-mandatory]** Has your country entered into any bilateral or multilateral agreement or arrangement on mutual legal assistance or does your domestic legal

system provide for the possibility of 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 No

64. **[Mandatory]** 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.

65. **[Non-mandatory]** Is the provision of mutual legal assistance subject to the double criminality requirement according to your domestic legal framework (art. 18, para. 9)?

Yes Yes, in part No

If the answer to the above question is “Yes” or “Yes, in part” please specify 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.

66. **[Mandatory]** 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.

67. **[Non-mandatory]** 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

68. **[Non-mandatory]** If grounds for refusal of a mutual legal assistance request other than those provided for in article 18, paragraph 21, of the Convention are applicable in your domestic legal framework, please explain what those other grounds are.

69. **[Mandatory]** Are the requirements of your domestic legal system 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.

70. **[Mandatory]** 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)

71. **[Non-mandatory]** Is your country able to receive or transfer criminal proceedings?

Yes No

D. Transfer of sentenced persons (article 17)

72. **[Non-mandatory]** 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)? If so, please provide a list of such agreements or arrangements.

E. Joint investigations (article 19)

73. **[Non-mandatory]** Has your country 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)?

Yes No

74. **[Non-mandatory]** Does your national legislation provide a legal basis for the establishment of joint investigative bodies?

Yes No

75. **[Non-mandatory]** In the absence of any agreement or arrangement of the sort referred to in the question above, does your country permit joint investigations on a case-by-case basis?

Yes No

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

76. [Non-mandatory] 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, as mentioned in the question above, in the context of international cooperation to combat transnational organized crime (art. 20, para. 2)?

77. [Non-mandatory] States are invited to share information about whether, 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)

78. [Mandatory] Does your country's domestic legal system 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.

(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

79. [Mandatory] Does your domestic legal system 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.

80. **[Non-mandatory]** If any legal grounds for refusal specific to a request for cooperation for the purposes of confiscation are provided for in your domestic legal system, please explain what those grounds are (article 13, para 3 and 7, article 18, para 21).

81. **[Mandatory]** What information does your domestic legal system 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)

82. **[Mandatory]** Does the legislation of your country 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 the legislation in your country permits the return of such confiscated proceeds of crime or property for the purposes stated above.

83. **[Non-mandatory]** Are there any agreements or arrangements in force with other States that enable the disposal of confiscated proceeds of crime or property upon request of the other State (art. 14, para. 3)?

Yes No

84. **[Non-mandatory]** Are there any agreements or arrangements in force with other States that enable the sharing of proceeds of crime with those States (art. 14, para. 3 (b))?

Yes No

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

85. **[Mandatory]** Does your country’s domestic legal system 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

86. **[Non-mandatory]** Does your country participate in any global, regional, subregional or bilateral frameworks geared towards promoting cooperation between 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 specify some examples.

J. International law enforcement cooperation (article 27)

87. **[Mandatory]** 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

88. **[Mandatory]** 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

89. **[Mandatory]** 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

90. **[Mandatory]** 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

91. **[Mandatory]** 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

92. **[Mandatory]** 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

93. **[Non-mandatory]** Has your country entered into any bilateral or multilateral agreement or arrangement on direct cooperation between law enforcement agencies (art. 27, para. 2)?

Yes No

94. **[Non-mandatory]** 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

95. **[Non-mandatory]** Have the competent authorities of your country been involved in international law enforcement cooperation to combat transnational organized crime committed through the use of modern technology (art. 27, para. 3)?

Yes No

V. Prevention, technical assistance and other measures

A. Money-laundering (article 7)

96. **[Mandatory]** Has your country instituted a domestic regulatory and supervisory regime for banks and non-bank financial institutions or other bodies particularly susceptible to money-laundering 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”, kindly provide examples on, inter alia, the criteria used for identifying suspicious transactions or the sanctions imposed for non-compliance with reporting requirements.

97. **[Mandatory]** Does your country’s legal framework 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.

98. **[Non-mandatory]** 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 (United States)]

99. **[Mandatory]** 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.

100. **[Mandatory]** 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

101. **[Non-mandatory]** Has your country established a practice of analysing, in consultation with the scientific and academic communities, where appropriate, 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”, kindly provide examples

102. **[Non-mandatory]** 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.

103. **[Mandatory]** Has your country developed and 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”, kindly 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

104. **[Mandatory]** 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”, kindly provide examples and/or best practices on promotion of training

If the answer is “yes”, kindly 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

105. **[Non-mandatory]** 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.

106. **[Non-mandatory]** 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

and/or

(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

and/or

(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

and/or

(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

and/or

(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", please specify and list relevant measures.

107. **[Non-mandatory]** Does your country's domestic legal system enable 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's legislation enables the reintegration into society of persons convicted of offences covered by the Convention.

108. **[Non-mandatory]** Have your country's competent authorities 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", kindly provide examples.

109. **[Non-mandatory]** Have your country's competent authorities 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", kindly provide examples.

110. **[Mandatory]** 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.

111. **[Non-mandatory]** Has your country developed and shared analytical expertise⁸ 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", kindly 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

112. **[Mandatory]** 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", kindly provide examples.

113. **[Mandatory]** 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)?

⁸ **Note by the Secretariat:** explanatory context to understand the notion of of "analytical expertise" available in the Legislative Guide. The *Travaux Préparatoires* of the Convention also offer assistance in this regard, with reference - for comparison purposes - to article 27 para. 1 (e) and (f) of the Convention.

Yes No

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

114. **[Non-mandatory]** 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”, kindly provide best practices/examples.

115. **[Non-mandatory]** 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 required⁹

A. Difficulties encountered

116. Has your country encountered any difficulties in implementing its obligations under the Convention? If “yes”, please specify.

Yes No

⁹ At the ninth session of the Working Group on International Cooperation, held back-to-back with the eleventh session of the Working Group of Government Experts on Technical Assistance, from 28 to 31 May 2018, one speaker shared her understanding that, upon finalization of the draft questionnaire and on the understanding that a review mechanism for the Convention is to be in place in future, the review process would be gradual and States parties would not fill in the entire questionnaire from the very beginning, but gradually, based on the decision to be taken with regard to the review cycles. Therefore, the final questions referring to the difficulties encountered and assistance required should touch upon all the relevant clusters and should be addressed in the framework of each cycle. The same speaker noted that with regard to questions relating to (a) steps that have to be taken if domestic legislation has not been adapted to the Convention’s requirements; and (b) whether a State party requires legal technical assistance to overcome difficulties in adopting adequate national legislation, the following subsections should be provided to enable the provision of separate answers: Definition and criminalization; law enforcement and the judicial system; international cooperation in criminal matters; and prevention, technical assistance and other measures. The same speaker further noted, as a preferred alternative, that, given the general nature of the questions in Part VI of the draft questionnaire, a general item could be inserted at the end of articles dedicated to a review cycle, referring to the final part of the questionnaire but particularizing to the specific theme. Another option would be to adjust the questions from Part VI to each of the clusters, but this would be more complicated and time consuming. Another speaker supported this observation and noted that the government experts participating in the international cooperation Working Group were not given an opportunity to provide comments on the annex to resolution 8/2 of the Conference of the Parties to the Convention which appears from a practitioner’s perspective to be impractical in some respects.

- 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)

117. States are kindly invited to share examples of their experiences applying the Convention.

B. Need for technical assistance

118. 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

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- Institution-building, or the strengthening of existing institutions
 - Prevention and/or awareness-raising
 - Technological assistance
 - Establishment of databases
 - 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]¹⁰

VII. Other information

119. 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.

¹⁰ Language to be included should the review mechanism take place in cycles.