

"Links between corruption and other forms of crime"

States parties are invited to provide relevant information in line with paragraph 22 of resolution 9/1, in which the Conference:

Encourage [d] States parties to further explore and enhance their knowledge of the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, including during times of emergencies and crisis response and recovery, to better strengthen integrity, transparency and accountability, and invite[d] the secretariat, within existing resources, to compile a report in this regard on the voluntary information provided by States parties and submit it to the Conference at its tenth session [emphasis added).

States parties may wish to take a broad view of "other forms of crime" when responding to this questionnaire, which may include all forms of organized crime and economic crime, as well as other crime, among others.

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentiality.

Country: Myanmar

Government Agency: Anti-Corruption Commission Office

Department: International Affairs and Prevention Department

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Questionnaire

Corruption may contribute to impunity for other types of crime by providing the leverage to facilitate and execute them, and to make them invisible, and often exacerbates those crimes through the involvement of powerful elites and individuals. Corrupt behaviour (such as violating duties, accepting or transferring bribes, and facilitating transactions, as well as ignoring or failing to follow-up on information that a crime may be taking place) may serve as an enabler of other crimes by allowing for the enrichment of criminals and incentivizing individuals in the public and private sector to facilitate their operation. Other crimes can therefore flourish and in turn provide a basis for a wide range of corrupt behavior.

This questionnaire is structured into two parts: Part 1 considers steps taken to understand the links between corruption and other forms of crime, while Part 2 focuses on the measures aimed at responding to corruption linked with other forms of crime.

I. Understanding the links between corruption and other forms of crime

1. Has your country undertaken any analyses or assessments to better understand the interlinkages between corruption and other forms of crime, including typologies of crime and how corruption may be used to facilitate and enable organized crime, economic and other crime, and vice versa? YES/NO.

Ans: Yes

- a. If YES, was such analysis carried out through formal risk assessments or other methods? Please describe.

Ans: Myanmar has conducted National Risk Assessment on Money Laundering and Terrorist Financing- NRA with the support of International Monetary Fund and Japan Government. According to the Assessment, Myanmar was able to discover the amount and nature of proceeds of corruption, the interlinkages between predicate offences including corruption and money laundering cases, vulnerabilities and consequences of money laundering and financing of terrorism. The summary of the Assessment can be accessed at (<https://www.mfiu.gov.mm/en/risk-assessment>) web page.)

Myanmar has undertaken measures and investigations in line with Anti-Corruption Law and Regulations. In addition, the cases have been reviewed and made assessments to know the root cause of corruption and type of corruption. Then, the next Actions have been drawn in order to better understand the Interlinkages between corruption and other forms of crime, including typologies of crime.

Myanma Foreign Trade Bank under Ministry of Planning and Finance (MOPF) is a reporting entity concerning the Threshold Transaction Reporting (TTR), Cash Transaction Reporting (CTR), Suspicious Transaction Reporting (STR) if any to the Myanmar Financial Intelligent Unit and Central Bank of Myanmar as well as Ministry of Planning and Finance regularly. The analyses or assessments of linkage between corruption and other form of Crime have been carrying out related department such as Myanma Police Force and/or the organization (or) agency assigned by Myanma Police Force.

2. Please list the main typologies of other crime that have interlinkages with corruption in your country.

- Drug trafficking
- Money-laundering
- Human trafficking
- Migrant smuggling
- Firearms trafficking
- Crimes that affect the environment
- Trafficking in cultural property
- Cybercrime
- Terrorism
- Other forms of economic crime, organized crime or other crime with links to corruption (please list)

Ans: Most of these crimes are estimated to be as follows; drug trafficking, money-laundering, human trafficking, firearms trafficking and crimes that affect the environment.

From 2021 to July 2023, during the tenure of the State Administration Council, 88 cases of misdemeanor individuals who abused their authority to take bribes within the regional/state High Court, in violation of Section 3(a)(1) of the Anti-Corruption law, were prosecuted and addressed. Additionally, under Section 3(A)(2) of the Anti-Corruption Law, 158 misdemeanor cases resulting in property damage were addressed, involving misappropriation of state funds. In total, 246 cases of criminal were prosecuted and addressed.

3. Please provide examples of corruption linked to these other crimes.

Please elaborate if you have or had any cases of the following in your country:

A. Corruption as an enabler of crime

a. Cases of public officials abusing their office to facilitate criminal activity or to protect certain criminal individuals and entities-or to gain support from them -for example, by providing funding or protection or to gain and control public resources?

Ans: Public officials abusing their positions and authority, by Section 3(a)(2) of the Anti-Corruption Law about state funds, led to prosecuting 158 criminal cases involving property damage and destruction.

b. Cases of corruption being used to facilitate other types of crime, such as trafficking in persons, illicit trade or smuggling of drugs across borders? For example, have any cases involved the following:

- the issuance of permits, licenses, visas or documents for border crossings
- the purchasing of firearms
- bribery of border agents
- falsification of data in public registries

other

- c. Cases of corruption in public procurement to advance the interests of public officials and their associates? Cases of officials giving preferred access to contracts and tenders to their associates in cases involving other crimes?

Ans: Concerning question No. 3, we would like to choose subheading A. Corruption as an enabler of crime and sub-answer (c). The examples for the cases of corruption in public procurement to advance the interests of public officials and their associates and cases of officials giving preferred access to contracts and tenders to their associates in cases involving other crimes are tender submission procedures, which are as follows:

- does not follow Public Procurement directives 1/2022 for direct purchase when the construction, acquisition or disposal of fixed assets can be provided from a vendor by direct contract;
- does not follow Public Procurement directives 1/2022 for unlimited tender when tender response will be invited from specially selected bidders as decided by the tender committee for procurement.

As a result of non-compliance with the directive No. (1/2017) issued by the President's Office regarding the procurement of public sector, 50 cases of criminal individuals were prosecuted under the anti-corruption law.

- d. Cases of the protection of victims of crime and corruption being impeded by corruption involving public officials or persons in the private sector?

B. Corruption and crime linked to political patronage

- a. Criminal individuals and entities attempting to use corruption to obtain access

to political leadership or to gain power and influence, such as through:

- political party financing
- trading in influence
- other

Ans: Concerning political parties, 20 criminal cases were prosecuted under the anti-corruption law.

b. Cases of crime and corruption being used to attempt to influence or disrupt elections?

c. Cases of criminal involvement, including through the use of corruption, to attempt to influence appointments of public officials to build dependency?

C. Corruption to make organized and other crime invisible

a. Cases of criminals and their associates using proceeds of crime and corruption for personal enrichment and to conceal the origin of the crimes and for money- laundering? In particular, cases of concealment of ownership being used to facilitate corruption and other forms of crime?

Ans: Nine cases were prosecuted under the anti-corruption law, resulting in the confiscation of public funds due to enrichment through corrupt practices.

b. Cases of corruption being used to impede investigations, prosecutions and adjudications of organized and other crime, such as through bribery or allocation of political and other favors to law enforcement and judicial officers? Are there cases of corruption linked to organized and other crime not being pursued by the authorities ('blind eye')?

Ans: Biased investigations, prosecutions, and trials conducted by judicial authorities and other law enforcement agencies resulted in one criminal case related to those situations

c. Cases of individuals and entities using corruption and other crimes to generate the funds needed to buy protection from the police? Cases of corruption in law enforcement authorities used to shield organized crime?

d. Cases of law enforcement being impeded due to a lack of information and data, as well as reporting of crimes related to corruption?

4. Has your country collected data or statistics to track and/or analyze trends related to the links between corruption and the types of crime outlined in Question 2 above? YES/NO

Ans: Yes

- a. Are these data analysed and used systematically, such as in prevention and investigations or prosecutions? YES/NO.

Ans: Yes, as we answered in paragraph 1, while we conduct National Risk Assessment, we collected information from Reporting Organizations, Supervisory Authorities, Law Enforcement Agencies, Prosecution Organizations and Adjudication Organizations and the officers of those organization by using perspective survey questionaries.

We conducted NRA by using these data. We have issued the National Strategy for Anti-Money Laundering and Countering the Financing of Terrorism on 23-5-2023 with the approval of the cabinet to handle the weakness base on the result of the NRA. The strategy consists of five strategy areas including prevention of crimes including corruption (Strategy Area-1), capacity building of the Law Enforcement Agencies in Investigation, prosecution and punishment of Money Laundering, Financing of Terrorism and crimes that produce illegal proceeds including corruption (Strategy Area-2). The National Strategy on Anti-Money Laundering and Countering the Financing of Terrorism can be accessed at the webpage of Financial Intelligence Unit, <https://www.mfiu.gov.mm/en/laws-regulations-orders>.

That Strategy is distributed to the respective departments, implementation is supervised and monitored by respective Supervision Committees of each strategy area and required technical assistance and training are also providing.

Reviewing the cases that were prosecuted under the anti-corruption law and utilizing them for prevention, investigation, and prosecution.

- b. Please describe any methodologies used for strengthening measurement and terminological clarity, and achieving a deeper understanding of the different contexts (e.g. in times of peace or in emergencies or conflict situations) and sectors (e.g. law enforcement, border crossing, immigration,

intelligence and security, procurement), as well as any corruption or organized crime threat assessments that take into account the interlinkages between corruption and other forms of crime.

Ans: The Central Statistical Organization has not yet collected the data relate to the links between corruption and the type of crime. However, the Central Statistical Organization publishes crime statistics such as “Selected crimes, Offenders by Types of Offence, and Crime Rates by Type of Offence” in the annual Statistical Year Book collecting from the Myanmar Police Force.

5. Has your country collected data or statistics to track and/or analyse trends concerning international cooperation in this regard? YES/NO.

Ans: Yes

a. Please elaborate and share any findings with regard to the good practices and challenges in international cooperation with regard to countering corruption as it relates to other forms of crime.

Ans: The answer is the same as paragraph-4. In Area-5 of the National Strategy for Anti-Money Laundering and Countering the Financing of Terrorism (to enhance the domestic and international cooperation), the action items such as to give awareness on International Cooperation, to develop procedures for sharing of information, to enhance formal and informal cooperation, to sign MOUs to share information and extradite the criminals are included and implementation of the action plans are monitoring sustainably.

For international cooperation, in accordance with the stipulations of the Anti-Corruption Commission's Order No. (33/2020), during the investigation of the general manager from the Department of Civil Aviation, the investigation team worked in collaboration with the Myanmar Embassy in Thailand, the Office of the Labor Attache, and the Associations of Overseas Employment Service Providers in Myanmar. They actively engaged in the process of legally requesting assistance from Thailand's Central Authority for Inter-Country Assistance in criminal matters a total of 11 times.

6. Has your country taken any steps at national, regional or local levels to better understand and study the linkages between corruption and other crimes, such as criminological research, training or awareness raising? YES/NO.

Ans: Yes

- a. If YES, please elaborate, providing examples.

Ans: To enhance comprehension of the correlations between corruption and other criminal activities, the Anti-Corruption Commission organized Investigative Training Course No. (1/2022), held from September 26, 2022, to October 21, 2022. Furthermore, Investigation Training Course No. (1/2023) was conducted from June 26, 2023, to January 9, 2023.

7. Which aspects of corruption as it relates to other forms of crime do you consider require further research, and what are the gaps in knowledge or understanding that, if addressed, could facilitate countering these crimes?

II. Measures aimed at responding to corruption linked with other forms of crime

8. Has your government adopted or utilized any measures at national, regional or local levels aimed at **preventing** corruption linked with other forms of crime? YES/NO.

Ans: Yes

- a. If YES, please elaborate. Measures may include:

- safeguards in specific sectors (e.g. law enforcement, border crossing, immigration, Intelligence and security, procurement, local officials)
- development of targeted strategies, policies, action plans at national or sectoral level specifically addressing the links between corruption and other crime
- establishment of dedicated institutional frameworks
- specific rules, codes of conduct, or standards of transparency and integrity for public officials who are most exposed to the risk of being involved in crime and corruption
- systems for the disclosure of assets and private interests

- control mechanisms, such as internal approval systems to avoid having one- to-one meetings
- controls on issuances of visas, work permits, firearms licenses
- the use of information and communication technology (ICT) based tools to prevent (or detect) such crimes
- awareness raising and prevention measures for public officials that are vulnerable to corruption and other forms of crime
- other

Ans: In respect of specific rules, codes of conduct, or standards of transparency and integrity for public officials who are most exposed to the risk of being involved in crime and corruption, Bureau of Special Investigation has published and distributed the book on the Code of Conduct and Investigation Procedure for Good Investigation Officer in order to the officer should be able to maintain ethics in carrying out their duties and in order to be able to carry out the work in accordance with the existing Laws, Rules and Regulation and transparently.

The Anti-Corruption Strategic Plan (2022-2025) was devised with the aim of preventing corruption. The Anti-Corruption Commission has also issued a Code of Conduct to promote integrity.

9. Has your government adopted or utilized any measures aimed at **detecting, investigating and prosecuting** corruption linked with other forms of crime? YES/NO.

Ans: Yes

- a. If YES, please elaborate. Measures may include:

- legislation criminalizing all forms of corruption related to other types of crime
- legislation providing for the liability of legal persons for their role in corruption linked to other forms of crime
- measures to identify beneficial owners of legal persons
- specialized Investigative techniques

- strengthened institutional frameworks, including the establishment of dedicated bodies (such as those mandated to identify links between corruption and other crime), task forces or coordination mechanisms between-authorities responsible for corruption and other crime
- capacity-building, including targeted training and peer-learning for relevant authorities
- measures to enable the identification, confiscation, tracing or seizure (and, where relevant, return) of assets that are proceeds of corruption-related crimes
- mechanisms to address the role of professional gatekeepers (i.e. financial, legal, accounting or other relevant professionals) in the transfer of proceeds of corruption and other crime
- measures aimed at encouraging the protection or participation of actors outside the public sector, including:
 - reporting mechanisms, legal protections and incentives aimed at encouraging persons to report corruption and other crimes
 - measures to protect victims, witnesses, and cooperating offenders
 - measures aimed at ensuring the investigation and prosecution of acts of violence committed against journalists and civil society actors whose professional activity relates to corruption linked with other crimes
- other

Ans: Relating to legislation criminalizing all forms of corruption related to other types of crime, Myanmar has enacted the Anti-Corruption Law in 2013. The law can be accessed webpage of the Anti-Corruption Commission,

<https://www.accm.gov.mm/acc/index.php?route=product/category&path=59>

According to paragraph 5 and 6 of the Directive on Disclosure of Beneficiary Owner Information dated 15-11-2019 of the Directorate of Investment and Company Administration (DICA), companies, business organizations must accurately and continuously submit their beneficial owner information to DICA and the Inland Revenue Department.

In addition, according to sub-section (d)(3) of section 19 of the Anti-Money Laundering Law, Banks and Financial Institutions, Designated Non-Financial Businesses and Professionals shall take appropriate measures including customer due diligence measures to identify and verify the beneficial owners, to understand the ownership structure of the company and business organization and to determine whether the person who conduct transaction on behalf of a customer is legally authorized.

Competent authorities (such as law enforcement agency, police force, financial intelligence unit and tax agencies) can access the beneficial ownership information on companies and other legal persons created or registered in the country through the DICA.

In addition, all information including beneficiary information compiled by banks and financial institutions and designated non-financial business and professional can be accessed by Anti-Corruption Commission, Central Committee for Drug Abuse Control, Anti-Money Laundering Central Board, Central Committee for Counter Terrorism and Central Body for Suppression of Trafficking in Persons in accordance with the Court's order or section 17(b) of the Anti-Corruption Law, section 6(k) of the Narcotic Drugs and Psychotropic Substances Law, section 8(c) of the Anti-Money Laundering Law, section 6 (l) of the Anti-Trafficking in Persons Law respectively and can be used in their investigation.

At the present time, the respective law enforcement agencies have vested the power to use the special investigation technique such as the power to carry out the controls on natural persons, their baggages, their means of transport and mail or container, power to cut, restrict, intercept the electronic communication, power to investigate by using electronic tools, cut, restrict, and intercept the electronic communication and surveillance in accordance with to section 41 (a) of the Anti-Money Laundering Law, section 47 (e) of the Counter Terrorism Law and section 28(b), 29(a) and 31 of the Anti-Trafficking in Persons Law respectively.

The Bill amending the Anti-Money Laundering Law now incorporates a provision that grants law enforcement agencies the authority to utilize special investigation techniques in cases involving money laundering and predicate offenses. These predicate offenses include corruption, drug trafficking, human trafficking, firearms trafficking, and crimes affecting the environment. If the bill is successfully passed, these enhanced powers will be made available for use by the relevant authorities.

According to sub-section (e) and (w) of the Anti-Money Laundering Law, Casinos, real estate agents, dealers of precious metals and stones, lawyers, notaries and accountants are designated as reporting agencies. The reporting agencies shall fully comply with section 19, 20 and 21 of the law in which prescribed to conduct customer due diligence measure, identify and verify the beneficiary owner and politically exposed persons-PEP and thoroughly scrutinize and monitor every transaction of the customer.

If the above reporting agencies fail to comply with such provision, they shall be imposed criminal sanction or administrative sanction by section 44 and 37 of the Anti-Money Laundering.

Reporting agencies including financial institutions and designated non-financial business and professionals shall report the Financial Intelligence Unit if the transactions that exceed the amount required to be reported

or/and if it has suspicious that the transaction is relating to money laundering, terrorist financing or money and property obtained by illegal means.

To aid in the detection of corruption, as well as in investigations and prosecutions, discussions were conducted to elucidate the experience related to investigation and court proceedings.

Investigative capacity-building training course No. (1/2022) was held from September 26, 2022, to October 21, 2022, and Investigation training course number (1/2023) took place from June 26, 2023, to January 9, 2023.

In relation to proceeds of crime connected to corruption offenses, there were 9 confiscations.

The Whistleblowers Protection Law is being enacted to provide protection for individuals who report cases of corruption and other crimes.

The Whistleblowers Protection Law is being enacted to provide protection for victims, witnesses, and cooperating offenders.

10. Has your government adopted or utilized any measures aimed at facilitating **international cooperation** and the rapid exchange of information for cases that have Interlinkages between corruption and other forms of crime? YES/NO.

Ans: Yes

- a. If YES, please elaborate. Measures may include:

- the implementation of mutual legal assistance through digital means
- measures aimed at enhancing the efficiency of extradition mechanisms
- the use of electronic communication channels or networks
- the use of joint or parallel investigations or the bilateral sharing of capacity and expertise on Investigating and prosecuting corruption offences linked with other forms of crime

- cooperation with other countries or multilateral, International or regional bodies to address corruption linked with other forms of crime
- accession to bilateral, regional or multilateral treaties and agreements
- other

Ans: Myanmar introduced the Mutual Assistance in Criminal Matters Law on April 28, 2004, to facilitate cooperation in legal matters pertaining to criminal investigations, prosecutions, and judicial proceedings. Section 13 of this law allows the requesting State to make urgent oral requests via telephone, facsimile, electronic mail, or any other electronic means, such as computer networks. Additionally, section 41 of the law ensures that communications conveyed through telephone, fax, email, or other electronic methods, including those made through computer networks, hold the status of admissible evidence.

Myanmar has enacted the Extradition Law on 21-7-2017 with the aim of improving the efficiency of the extradition process. The law can be found on the website of the Financial Intelligence Agency, (<https://mfiu.gov.mm/en/laws-regulations-orders>).

Myanmar Financial Intelligence Unit has signed Memorandum of Understanding-MOU with the Financial Intelligence Units of Cambodia, Japan, Russian Federation, Republic of Korea, Singapore, Nepal, China, Bhutan, Laos, India, Indonesia, Bangladesh, Sri Lanka, United States and Thailand in order to share information relating to money laundering, financing of terrorism and predicate offences including corruption and technical assistances. The information can be accessed at the webpage of Myanmar Financial Intelligence Unit, <https://mfiu.gov.mm/en/mous>.)

International cooperation and information exchange for corruption-related and other crimes can be achieved through digital communication with the Thai Embassy and by submitting mutual assistance requests.

While the Anti-Corruption Commission has been actively involved in international cooperation, as part of our ongoing initiatives to enhance international partnerships, we signed bilateral Memorandum of Understanding with several anti-corruption authorities from other countries such as Viet Nam, Cambodia, Thailand, Laos, India, and Russia. Moreover, to combat cross-border corruption in Southeast Asia, ACC is engaging with financial intelligence units and other law enforcement agencies to discuss coordination and foster cooperation in investigating cross-border corruption.

Annex 2 [Note verbale reference: CU 2023/225/DTA/CEB/CSS)

"Progress made and challenges encountered in implementing resolution 9/1"

States parties are invited to provide relevant information in line with paragraph 25 of resolution 9/1, entitled Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery, in which the Conference:

[Requested] the secretariat to submit to the Conference of the States Parties at its tenth session a report on progress made and challenges encountered in Implementing (resolution 9/1).

A. Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: Myanmar

Government Agency: Anti-Corruption Commission Office

Department: International Affairs and Prevention Department

[Redacted contact information]

B. Questions

1. Progress made

Please describe the measures or steps your country has taken (or is planning to take, together with the related appropriate time frame) to Implement operative paragraphs 1 to 21 of resolution 9/1. Please state the relevant operative paragraphs in your answer.

2. Challenges encountered

Please describe any challenges your country has encountered in implementing operative paragraphs 1 to 21 of resolution 9/1 regarding strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery. Please state the relevant operative paragraphs in your answer.