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Review of implementation of the United Nations Convention against Corruption

Executive summary: Nepal

Note by the Secretariat

The present conference room paper is made available to the Implementation Review Group in accordance with paragraph 36 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (Conference of the States Parties resolution 3/1, annex). The summary contained herein corresponds to a country review conducted in the fourth year of the first review cycle.

* CAC/COSP/IRG/2016/1.



II. Executive summary

Nepal

1. Introduction: Overview of the legal and institutional framework of Nepal in the context of implementation of the United Nations Convention against Corruption

Nepal signed the Convention on 10 December 2003, ratified it on 23 February 2011 and deposited its instrument of ratification on 29 March 2011. Article 274 of the Constitution of Nepal, 2015 provides that ratification, acceptance, approval of, or accession to treaties to which Nepal is a party, will be as provided by law. The Nepal Treaties Act 1991 provides that any domestic legal provision inconsistent with a provision of a treaty ratified by Nepal would not be applicable insofar as it is contradictory; instead, the treaty provision would directly apply.

Several anti-corruption bodies have been established. The Commission for the Investigation of Abuse of Authority (CIAA) and the Department of Revenue Investigation (DRI) are involved in investigation and prosecution. A separate anti-money laundering department (i.e. the Department of Money Laundering Investigation, DMLI) has been set up. Further pertinent institutions include the National Vigilance Center (NVC), the Judicial Council and the Independent Review Committee under the Public Procurement Act.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active bribery of public officials is regulated in Section 3(3) of the Prevention of Corruption Act 2002 (POCA) and Number 15 of the Chapter on Punishment of the General Code. However, Section 3(3) criminalizes only the giving of bribes to public office holders. The promise or offering of bribes are punishable only indirectly through measures criminalizing attempt; offers of bribes are also punishable under Number 15 of the General Code. Moreover, only half of the punishment is applicable to bribe givers who are not government employees, under Number 15 of the General Code, which also provides for the possibility of a fine in lieu of imprisonment for both public officers and other persons. Bribes include advantages in any form, whether material or non-material. The legislation does not address third party beneficiaries or indirect bribery.

In Section 2(b) of POCA the term “public servant” is limited to persons holding public office, which does not cover judicial officers, unpaid public officials, and persons performing public functions or providing public services who are not public office holders.

Section 3(3) POCA should be read in conjunction with Section 3(1) and (2) which relates to passive bribery, also punished under Number 15 of the General Code. However, the solicitation of bribes, as well as third party beneficiaries and indirect bribery are not specified.

There is no specific offence of active or passive transnational bribery.

A specific offence on trading in influence is not established.

Nepal has not criminalized bribery in the private sector.

Money-laundering, concealment (arts. 23 and 24)

Nepal has criminalized money-laundering in its Money Laundering Prevention Act 2008, as amended (MLPA). Section 3 of the Act criminalizes any act of concealing, disguising or changing the true nature, source, location, disposition, movement or ownership of property or rights with respect thereto knowing or having reasonable grounds to believe that it is proceeds of crime.

The acquisition, possession and use of such property is addressed (Section 3(1)(c) MLPA) and participatory acts are covered.

Annex 1 of the MLPA provides a list of predicate offences, which does not include obstruction of justice. A lack of statistics was noted and Nepal has not furnished copies of its anti-money laundering laws to the United Nations.

Section 3(1)(b) of MLPA criminalizes the concealment of property while Section 3(1)(c) criminalizes the continued retention of property.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Section 17 of POCA criminalizes misappropriation and acts causing loss, abuse, destruction or misuse of property for personal purposes committed by public servants while performing duties pertaining to their office. The provision is limited to public property, and does not cover private funds, securities or other things of value entrusted to public officials by virtue of their position. Embezzlement or other diversion outside the person's functions is not covered.

Nepal has criminalized a range of improper conduct by public servants; however, they do not cover all types of unlawful conduct in the discharge of functions for purposes of obtaining an undue advantage.

Section 20 of POCA criminalizes illicit enrichment. A formal disclosure or statement of property must be submitted for the CIAA to investigate the matter (Section 31A CIAA Act 1991).

Nepal has not comprehensively criminalized the embezzlement of property in the private sector.

Obstruction of justice (art. 25)

Nepal has not criminalized obstruction of justice in relation to offences under the Convention outside the context of organized criminal activity, although Section 51 of POCA punishes persons who cause hindrance or obstruction of investigations and inquiries under the Act.

The maximum period of imprisonment of 6 months for obstruction of justice may present impediments to international cooperation.

Liability of legal persons (art. 26)

Nepal's legislation addresses the criminal liability of legal persons for money-laundering but not other Convention offences. The existing laws do not

prescribe the criminal, civil or administrative liability of legal persons for corruption related offences.

Sanctions against legal persons for corruption offences are not specified in POCA. It was explained that the range of administrative penalties could include fines, blacklisting, compensation for damages, revocation of licenses, and dissolution.

Participation and attempt (art. 27)

Nepal has criminalized the liability of accomplices and attempts (Sections 21, 22 POCA), but no provisions covering assistants or instigators to corruption exist. The preparation for offences is not criminalized.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Although sanctions for corruption generally take into account the gravity of offences, the relevant penalties could be further harmonized. For example, bribe givers who are not government employees are subject to only half punishment, under Number 15 of the General Code, which also provides for the possibility of a fine in lieu of imprisonment for both public officers and other persons. Under Section 21 of POCA persons attempting to commit offences are subject to half of the punishment of principal offenders. Moreover, in the case of bribery offences (Section 3 POCA), it is unclear what the punishment is if the value of the bribe cannot be determined.

Apart from the Head of State, there are no criminal immunities for public office holders. However, certain officials holding constitutional posts are excluded from CIAA's investigative reach for conduct committed during their term in office (Article 239 of the Constitution). They can only be prosecuted once removed through impeachment.

The prosecution decision of the CIAA in corruption cases is not subject to the discretion or consent of the Attorney General or any outside person or office. Investigations of money-laundering are sent to the District Attorney General for prosecution decision, and then filed by the DMLI in the Special Court. Prosecution decisions are subject to judicial oversight and may be reviewed and corrected by the Supreme Court in specific cases.

Nepal has adopted provisions in the CIAA Act, POCA and Special Court Act to ensure that decisions on release pending trial or appeal account for the need to ensure the presence of defendants in criminal proceedings.

There is no system of early release or parole for offences under the neither Convention, nor are there provisions allowing for pardon or amnesty of offenders in Nepal.

The CIAA Act and POCA provide for the suspension of public officials who have been detained and against whom a corruption case is filed, or who could tamper with evidence or interfere in proceedings. Once the person has been convicted, he or she is also dismissed from the public service (Civil Service Act, 1993). The possibility of reassignment of public officials accused of corruption is not established. A number of provisions address the disqualification of convicted persons from holding public office and positions in public enterprises.

There are no measures on the reintegration of prisoners into society.

Cooperating offenders can be granted total or partial remission of punishment if they assist in investigations and present themselves as witnesses for the investigating authority (Sections 55 POCA, 44 MLPA). Not all offences established in accordance with the Convention are criminalized through these Acts. Cooperating offenders may be given rewards for their assistance (Section 35A CIAA Act), and their identity can be kept confidential (Section 60 POCA). However, their protection from potential retaliation or intimidation is not established. Nepal does not grant immunity from prosecution to cooperating offenders.

Nepal has not adopted agreements or arrangements with other States on the mitigation of punishment or granting of immunity to cooperating offenders.

Protection of witnesses and reporting persons (arts. 32 and 33)

Nepal has not regulated the protection of witnesses, experts and victims of corruption. A Witness Protection Bill 2011 has been drafted, but had not received Cabinet approval at the time of review. It would contain some measures for the protection of victims and whistle-blowers. Nepal has not entered into agreements or arrangements with other States for the protection of witnesses and experts.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Section 11 of the Act relating to Freezing, Seizing and Confiscation of Proceeds and Instrumentalities of Criminal Offences, 2014 (Confiscation Act) provides for the confiscation (including value-based) of proceeds and instruments used or destined for use in crime.

Sections 3 and 4 of the Confiscation Act provide for the tracing and identification, freezing or seizure of proceeds and instrumentalities. The CIAA can further seize any object, document or file as required (Section 19(8) CIAA Act), and freeze transactions or accounts in investigations into corruption charges (Section 23A CIAA Act). The CIAA does not require a court order to access bank and financial records but can do so administratively. POCA also provides for identification, tracing, freezing and seizing of proceeds and instrumentalities (Sections 28, 30, 31, 39-41 and 48), while provisions relating to money-laundering offences are found in MLPA (Sections 16, 19A). The absence of statistics and case examples on confiscation is noted.

The Confiscation Act contains a number of provisions on the administration of frozen, seized or confiscated property. The possibility of confiscating property where the offender has not proven its lawful origin is established for cases of illicit enrichment (Section 20 POCA) and money-laundering (Section 28 MLPA).

Statute of limitations; criminal record (arts. 29 and 41)

The five-year limitations period for corruption offences under Section 13(2) of the CIAA Act starts to run from the date of commission, not discovery of the offence. The period is not extended or interrupted where the offender has evaded the administration of justice.

The legislation does not regulate the consideration of previous foreign convictions.

Jurisdiction (art. 42)

Nepal has established jurisdiction with regard to most circumstances referred to in article 42 of the Convention, with the exception of offences committed: on board vessels or aircraft; against nationals; by stateless persons resident in Nepal; or against Nepal.

There are no obstacles to consultations with other States parties with a view to coordinating law enforcement action.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Under Section 12B of the CIAA Act, the Commission may request concerned authorities and bodies to rectify damages caused by the improper conduct of public officials, including the withdrawal of contracts or benefits. Provisions on the withdrawal of licenses and contracts involving bidders and contractors for public works are found in the Public Procurement Act, 2007.

Under Section 12A of the CIAA Act the Commission may request compensation for losses or damage incurred by the government of Nepal or public entities from the improper conduct of public office holders. Section 59 POCA also contains relevant provisions.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

The CIAA is a constitutional body, whose independence and autonomy (including financial) is ensured by the Constitution (article 238). Its commissioners are appointed by the President on the recommendation of the Constitutional Council (article 238(2)). They may be removed from office only by parliament through impeachment by two-thirds majority (article 238(4)(c)). Nepal could strengthen the capacity of relevant institutions, including the CIAA.

The CIAA and other investigating authorities may solicit documentation and the services of experts, specialized agencies, government offices, departments and other institutions, and an obligation to cooperate is established (Sections 21(1) and (3), 26 CIAA Act; 28 and 32 POCA).

Persons who fail to cooperate with CIAA investigations may be sanctioned (Section 19 CIAA Act). The FIU receives suspicious transaction reports and can request additional documents and information from reporting entities (Section 10 MLPA).

Nepal has established hotlines and websites to encourage corruption reporting, and the CIAA has conducted trainings involving the media, the chamber of commerce and industry, and law practitioners.

2.2. Successes and good practices

- Section 3 of POCA covers the bribery of persons expecting to become public servants, as well as giving advantages as a reward for acts or omissions already performed.
- The CIAA is a constitutional body that cannot be dissolved by act of parliament and whose financial autonomy is enshrined in the Constitution. The

removal of commissioners is by impeachment by two-thirds majority of Parliament or by resignation.

- Nepal undertakes a variety of activities to raise awareness and encourage reporting on corruption, including through a radio programme aired every Saturday.

2.3. Challenges in implementation

It is recommended that Nepal:

- Amend the legislation to cover all categories of public officials listed in article 2 of the Convention.
- Explicitly criminalize the promise and offer, as well as the solicitation of bribes, address third party beneficiaries and indirect bribery, and consider harmonizing the relevant penalties for bribery (art. 15).
- Criminalize the active bribery of foreign public officials and officials of public international organizations and consider establishing the passive version of the offence (art. 16).
- Expand the legislation criminalizing misappropriation to include embezzlement, misappropriation and diversion of all types of property and irrespective of any loss, abuse or damage caused during the course of official duties (art. 17).
- Consider criminalizing trading in influence (art. 18).
- Consider adopting legislation to criminalize any type of unlawful conduct in the discharge of functions for purposes of obtaining an undue advantage (art. 19).
- Clarify its legislation on illicit enrichment in regard to the precondition of a formal disclosure or statement of property having been submitted, to facilitate the conduct of investigations (art. 20).
- Consider comprehensively criminalizing bribery and embezzlement in the private sector (arts. 21, 22).
- Amend its legislation to include all offences established in accordance with the Convention as predicate crimes to money-laundering; strengthen data collection systems to allow for the identification and tracking of money-laundering cases, including by category of predicate offence; and furnish copies of its anti-money laundering laws to the United Nations (art. 23).
- Criminalize obstruction of justice in line with the Convention and consider amending the applicable punishment to ensure such offences are extraditable (art. 25).
- Adopt measures to clearly establish the liability (civil, criminal or administrative) of legal persons for offences under the Convention, without prejudice to the criminal liability of natural persons. Ensure that legal persons are subject to effective, proportionate and dissuasive sanctions, for example by

specifying the applicable monetary sanctions and through the enforcement of existing penalties (art. 26).

- Ensure the liability of accomplices and instigators, and consider criminalizing the preparation of corruption offences (art. 27).
- Extend the statute of limitation for corruption offences and provide for its extension or suspension where the offender has evaded the administration of justice (art. 29).
- Consider harmonizing the relevant penalties for corruption offences (art. 30(1)).
- Eliminate the exemption for certain public officials from CIAA's investigative reach for conduct committed during their term in office, to maximize the effectiveness of law enforcement measures and ensure that all public officials are subject to effective investigation and prosecution during their term in office (art. 30(2)).
- Consider adopting measures on the reassignment of public officials accused of corruption (art. 30(6)).
- Take action to promote the reintegration into society of persons convicted of corruption-related offences (art. 30(10)).
- Strengthen its data collection systems to allow for the tracking and reporting of confiscation actions, including by type of underlying offence (art. 31).
- Take measures to provide effective protection for witnesses, experts, victims and, as appropriate, their relatives or associates (art. 32).
- Consider adopting protection measures for reporting persons (art. 33).
- Consider adopting measures to strengthen the CIAA's ability to address consequences of corruption in the private sector (art. 34).
- Strengthen the capacities of relevant anti-corruption institutions, including CIAA, DMLI, police and FIU, and involving the judiciary, to ensure adequate resources, manpower and investigative capacity, including through professional training. Also, consider extending the CIAA's mandate over conduct in the private sector, and strengthen the independence of DMLI and the FIU (art. 36).
- Take appropriate measures to encourage offenders to cooperate with regard to all offences established in accordance with the Convention (art. 37, paras. 1 and 2).
- Adopt measures to provide effective protection from potential retaliation or intimidation for cooperating offenders and consider entering into agreements or arrangements with other States parties to permit the provision of mitigated punishment or immunity (art. 37, paras. 4, 5).
- Consider taking previous foreign convictions into consideration during criminal proceedings (art. 41).
- Establish jurisdiction over offences committed on board vessels or aircraft (art. 42, para. 1 (b)).

- Consider establishing jurisdiction over offences committed: against nationals, by stateless persons habitually resident in Nepal; and against Nepal (art. 42, paras. 2(a), 2(b), 2(d)).
- Consult with foreign authorities with a view to coordinating actions (art. 42, para. 5).

2.4. Technical assistance needs identified to improve implementation of the Convention

The following forms of technical assistance would strengthen anti-corruption measures:

- A comprehensive technical assistance needs assessment, in coordination with relevant stakeholders and cooperation partners, to determine priority areas for law reform, capacity building, training, awareness raising and enhancement of inter-agency coordination;
- Awareness raising, capacity building and training for the judiciary on anti-corruption and measures to address delays in the administration of justice and the backlog of cases in the criminal justice system.

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is regulated by the Extradition Ordinance 2013 (EO) and is conditional on the existence of a treaty (Section 3(a) EO). Nepal does not apply the Convention as legal basis and has concluded one bilateral extradition treaty with India, which does not cover all offences established under the Convention.

Dual criminality is required for extradition and offences must be punishable in both jurisdictions by at least three years' imprisonment, unless involving, inter alia, taxation, revenue, economic or financial offences (Section 4 EO). Corruption offences are considered to be economic offences and thus extraditable even if they do not meet the threshold for imprisonment. It is not clear whether this would also apply to offences such as obstruction of justice. Accessory extradition is not recognized.

Extradition requests are processed through diplomatic channels. For passive extradition requests, if the Ministry of Home Affairs agrees to the request, the case is transferred to the District Court for the final decision.

Nepal does not extradite its nationals (Section 5(e) EO), but prosecutes them for offences committed abroad (Section 17 EO) and can enforce foreign sentences for nationals whose extradition has been denied (Section 17 (3) EO). Conditional extradition is not recognized.

Prima facie evidence must be provided when requesting the arrest of a sought person (Section 7 EO). The Extradition Ordinance (Sections 10, 13-16) contains timeframes within which certain steps of the extradition proceedings have to be taken.

Nepal can take sought persons into custody to ensure their presence at extradition proceedings (Sections 10-12 EO). With regard to the refusal of discriminatory requests, Sections 5 of the Extradition Ordinance and Article 18 of the Constitution apply. Article 18 of the Constitution states that all citizens shall be equal before the law and that citizens shall not be discriminated against due to their gender.

Article 20 of the Constitution provides several safeguards in relation to due process, which are also applicable in extradition proceedings. Paragraph 3 of the article provides that the right to be produced before the authority trying the case within 24 hours of arrest shall not apply to persons in preventive detention and to citizens of an enemy state.

Nepal may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters; it is not obliged to engage in consultations with other States during extradition proceedings.

Nepal has not concluded agreements or arrangements on the transfer of sentenced persons.

While the transfer of criminal proceedings is not regulated, the National Strategy and Action Plan 2012 contains provisions aimed at concluding treaties on mutual legal assistance (MLA) in relation to the matter.

Mutual legal assistance (art. 46)

The MLA Act 2014 regulates the provision of MLA. While a bilateral treaty is generally required, assistance may also be provided on the basis of reciprocity, except for the enforcement of decisions of foreign courts (Section 3(2) MLA Act).

Nepal has not concluded bilateral treaties on MLA, but is a signatory to the South Asian Association for Regional Cooperation (SAARC) Convention on Mutual Assistance in Criminal Matters and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation Convention on MLA in Criminal Matters, which are not yet in force.

Nepal requires dual criminality for the provision of MLA, also for assistance involving non-coercive measures. In order to warrant assistance, offences must be punishable with imprisonment of at least one year or a fine of at least 50,000 RS in both the requesting State and Nepal. Not all offences established in accordance with the Convention satisfy these requirements.

As Nepal has not clearly specified the criminal liability of legal persons, Nepal cannot provide MLA for all offences for which a legal person is considered responsible.

Nepal can provide various forms of assistance regulated in the Convention (Sections 5, 19-24 MLA Act): The examination of objects and sites, as well as the provision of government records and documents are not explicitly covered.

In practice, Nepal may provide information spontaneously to other States, and has done so previously.

When depositing its instrument of ratification, Nepal indicated that the OPMCM would serve as central authority for MLA. Subsequently, it was substituted by the

Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs. The Secretary-General was not notified of this change.

Nepal requires MLA requests to be in writing in English or Nepali (Section 40, MLA Act) and sent through diplomatic channels; it does not accept oral requests or requests submitted through the International Criminal Police Organization (INTERPOL).

The MLA Act (Sections 15, 25) establishes additional requirements for MLA that are not foreseen by the Convention (Section 15(2)(d)).

The MLA Act contains basic rules on the temporary transfer of persons in custody, but only regulates their safe conduct and the safe conduct of witnesses, experts or other persons who consent to give evidence for acts committed prior to the time of the request.

Nepal keeps the fact and substance of requests confidential, if so required (Sections 15(3)(c), 15(2)(e) MLA Act). The MLA Act regulates the principle of speciality (Section 15 (3) (b) MLA Act).

The use of video conferencing is regulated only for examinations of witnesses in response to MLA requests made by Nepal (Section 11 MLA Act).

MLA requests can be refused inter alia if the offence does not meet the punishment threshold, when the provision of assistance or the reason for requesting assistance is adverse to sovereignty or public order issues, if the request is not received in accordance with a bilateral treaty, if the request relates to a political offence, if evidence is not received from the requesting State, or if the requesting State did not assure Nepal that the information provided through MLA would only be used for the specified purpose.

Nepal provides reasons for refusal of MLA requests (Section 30 MLA Act) and cannot refuse requests on the sole ground that the offence involves fiscal matters, or for bank secrecy reasons (Sections 4, 28, 29 MLA Act).

Requesting States are to indicate deadlines for providing assistance in the request (Sections 14 (1) (j), 25 MLA Act). The central authority has to decide within 15 days of the receipt of the request whether MLA is to be provided (Section 27 MLA Act).

The authorities indicated that, if the provision of assistance interfered with an ongoing investigation, prosecution or judicial proceeding, it would be considered contrary to public order and refused. The MLA Act 2014 does not regulate consultations with requesting States before refusing or postponing assistance.

The requesting State is required to bear the ordinary costs of executing a request (Section 42 MLA Act).

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Nepal cooperates through INTERPOL and has applied for membership in the Egmont Group. The FIU has concluded seven Memoranda of Understanding. Nepal also uses the SAARC Terrorist Offences Monitoring Desk and the SAARC Drug Offences Monitoring Desk, and has placed and received liaison officers.

Nepal has not concluded agreements on law enforcement cooperation, but considers the Convention as basis for such cooperation on condition of reciprocity.

Nepal can conduct joint investigations of money-laundering and enter into agreements on such investigations (Section 12(2) and (3) MLPA). No such agreements have been concluded. While there is no similar enabling provision with regard to other offences, the National Strategy and Action Plan 2012 contains provisions aimed at concluding agreements with other States on joint investigations.

Nepal can use controlled delivery in domestic corruption cases (rule 30, CIAA rules); undercover operations and wiretapping are possible for certain offences (Section 19C MLPA, Sections 14, 19 POCA). Nepal has not concluded agreements or arrangements for the use of special investigative techniques at the international level.

3.2. Successes and good practices

- The MLA Regulation 2013 contains templates for incoming and outgoing requests (art. 46).

3.3. Challenges in implementation

It is recommended that Nepal:

- Ensure that all offences established in accordance with the Convention are extraditable; and deem all such offences included in its extradition treaty, or amend the treaty accordingly (art. 44, paras. 1, 4).
- Consider amending its legislation to allow for extradition in the absence of dual criminality (art. 44, para. 2).
- Consider recognizing accessory extradition (art. 44, para. 3).
- Seek to conclude extradition treaties and consider recognizing the Convention as the legal basis for extradition (art. 44, paras. 5, 6, 18).
- Consider adopting measures to further streamline extradition procedures (art. 44, para. 9).
- Apply full protections to all persons subject to extradition proceeding (art. 44, para. 14).
- Extend protections against discrimination to sought persons who are not citizens of Nepal (art. 44, para. 15).
- Adopt measures to ensure that it will consult with requesting States prior to refusing extradition (art. 44, para. 17).
- Consider entering into agreements or arrangements on the transfer of sentenced persons (art. 45).
- Ensure that assistance can be provided with regard to all Convention offences regardless of their punishment. Nepal is encouraged to consider relaxing the dual criminality requirement, and should do so in particular where the request does not involve coercive action (art. 46, paras. 1, 9).

- Amend its legislation to ensure that MLA can be provided with respect to offences for which legal persons may be held liable (art. 46, para. 2).
- Consider adopting a general enabling provision, allowing the provision of any other assistance not contrary to the legal system (art. 46, para. 3(i)).
- Amend its legislation to ensure safe conduct of persons for acts, omissions or convictions prior to their departure from the requested State. Nepal is encouraged to specify in its legislation that a transferred person would receive credit for the time spent in the custody of the requesting State (art. 46, paras. 10-12, 27).
- Ensure that its notification of the designated central authority remains up to date; analyse the possibility of receiving MLA requests through INTERPOL in urgent circumstances, and assess whether direct receipt of requests by the central authority could contribute to swift and efficient cooperation (art. 46, para. 13).
- Consider accepting oral MLA requests (art. 46, para. 14).
- Amend its legislation to ensure that the additional requirements beyond paragraph 15 of article 46 do not pose obstacles to the provision of assistance (art. 46, para. 15).
- Consider adopting measures permitting hearings to take place by videoconference also for incoming requests (art. 46, para. 18).
- Ensure that the application of the additional grounds for refusal in its legislation beyond those specified in the Convention do not present obstacles to MLA (art. 46, para. 21).
- Consider adopting measures providing for the possibility of postponing rather than refusing MLA if such assistance would interfere with ongoing investigations, prosecutions or judicial proceedings (art. 46, para. 25).
- Ensure that consultations will be held with requesting States before assistance is refused or postponed (art. 46, para. 26).
- Regulate the costs of MLA in line with the Convention (art. 46, para. 28).
- Consider concluding agreements or arrangements on MLA, and consider using the Convention as a legal basis for MLA (art. 46, para. 30).
- Continue strengthening law enforcement cooperation and channels of communication, also in relation to offences committed through the use of modern technology (art. 48, paras. 1, 3).
- Consider concluding agreements on law enforcement cooperation (art. 48, para. 2).
- Specify in its legislation the possibility of using, where appropriate, special investigative techniques in relation to all Convention offences, and ensure that evidence derived therefrom continues to be admissible in court (art. 50, paras. 1 and 4).

- Nepal is encouraged to conclude agreements or arrangements in relation to the transfer of criminal proceedings (art. 47), joint investigations (art. 49) and special investigative techniques (art. 50, para. 2).
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