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**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### Myanmar

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

Myanmar signed the United Nations Convention against Corruption on 2 December 2005. It ratified the Convention on 20 December 2012 and deposited its instrument of ratification with the Secretary-General of the United Nations the same day. The Convention entered into force for Myanmar on 19 January 2013.

Myanmar follows the dualist tradition with regard to the obligations of international conventions and cannot directly apply international law as domestic law.

The new Constitution of Myanmar was adopted through a nationwide referendum on 29 May 2008. The Constitution divides the Union into seven regions, seven states and the Union territories.

The legislative power of the country is shared among the Pyidaungsu Hluttaw (Union Parliament), Region Hluttaws and State Hluttaws. The Pyidaungsu Hluttaw consists of two chambers, the Pyithu Hluttaw (House of Representatives) and the Amyotha Hluttaw (House of Nationalities). It has the right to enact laws for the entire or any part of the Union.

The Myanmar Anti-Corruption Commission (ACC) was established on 25 February 2014 under the mandate of the Anti-Corruption Law 2013. It comprises 15 members, including the Chairman and the Secretary. There are currently legislative amendments under consideration that may alter the composition of ACC.

Myanmar implements its obligations under the Convention through a variety of laws, including the following:

- The Constitution of the Republic of the Union of Myanmar (2008);
- The Penal Code of 1861 (PC);
- The Code of Criminal Procedure of 1898 (CPC);
- The Anti-Corruption Law of 2013 (ACL) and the Anti-Corruption Rules of 2015 (AC Rules);
- The Anti-Money-Laundering Law of 2014 (AML Law);
- The Civil Services Personnel Law (2013);
- The Mutual Assistance in Criminal Matters Law of 2004 (MLA Law) and the Rules for Mutual Assistance in Criminal Matters of 2004 (MLA Rules).

#### 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)*

Bribery of public officials is made a criminal offence both under the PC (sects. 161-165) and the ACL (sects. 3 and 55 et seq.). However, to the extent that

they cover identical offences, the ACL has superseded the PC because of its more specialized nature. The PC applies subsidiarily for offences not covered by the ACL.

The definition of corruption in section 3 (a) ACL includes both active and passive bribery. Sections 55, 56 and 57 ACL impose penalties that vary with the position of the offender (imprisonment of up to 15 years for persons in political positions and fines). However, the definition of corruption in section 3 (a) applies only to “competent authorities” as defined in section 3 (i) ACL. It seems therefore unclear if this provision could be used to punish active bribery committed by private individuals. No case law under the ACL was provided to clarify this point. The PC contains a provision on active bribery in section 162 PC. However, it envisages a kind of indirect bribery in a three-person relationship.

The definition of “competent authorities” is broad in scope and includes national and foreign public servants. Section 3 (e) ACL defines the former as officials either appointed or elected to any post in the legislative, executive or judiciary. Section 3 (f) defines foreign public servants.

While the PC makes passive trading in influence a criminal offence (sect. 163), there are currently no provisions to address active trading in influence.

The criminalization of active and passive bribery in the private sector is not clearly addressed in the ACL.

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

Under the AML Law, it is a criminal offence to convert, transfer, acquire, possess or use any money or property derived from certain offences or, among other things, to change or disguise the true nature, source, location or disposition of the money or property (sects. 3 and 5). A notification on the basis of section 5 (j) of the AML Law lists predicate offences, which include bribery and acts of corruption. Moreover, according to section 5 (i), any offence punishable with imprisonment for a term of one year and above also qualifies as a predicate offence. However, predicate offences committed by foreigners outside Myanmar are not included.

Criminal liability extends to persons participating in any way in the money-laundering offence, including abetting, supporting, managing or advising (sect. 3 (n) (iv)). A person can be convicted of both the offence of money-laundering as well as the underlying offence.

Concealment is also addressed in section 3 of the AML Law, which meets the requirements of the Convention.

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

Embezzlement is addressed in sections 378 et seq. (theft), 406, 408 and 409 PC, sections 6 (1), of the Public Property Protection Act (1947) and section 3 of the Public Property Protection Law (1963). These provisions address embezzlement in both the public and private sectors.

Section 3 ACL and section 217 PC address the abuse of functions by a public official, making criminal any conduct constituting abuse or misuse of official functions, including both taking official actions or failing to act.

While Myanmar does not make illicit enrichment a criminal offence as such, enrichment by corruption (sect. 3 (c) ACL) is a ground for confiscation.

*Obstruction of justice (art. 25)*

Sections 193-199, 204 and 503 PC criminalize perjury and interfering in the production of evidence and make it a criminal offence to threaten another person with injury to the person, the person's reputation or the person's property. The person using physical force, threats, intimidation or bribery to induce false testimony, etc., can be punished as instigator or abettor (sects. 107, 109, 114 PC et seq.).

It is a criminal offence to disrupt or cause harm, in any manner, to a public servant who is engaged in his or her official duties (sects. 228, 332, 333 and 353 PC). The statute's protections are extended to all public servants in whatever capacity of service.

*Liability of legal persons (art. 26)*

In the AML Law, criminal liability of legal persons is established in sections 43-49. The maximum fine is 300 million kyats (approximately \$300,000). Civil liability is extended to legal persons, including public bodies and companies of mixed public and private ownership, for offences committed on their behalf by their senior officers, employees or representatives. Such liability does not prejudice the criminal liability of natural persons who commit the same offence.

Under relevant administrative law, a court may also deprive the legal person of certain rights, including revocation of licences.

*Participation and attempt (art. 27)*

Liability is extended to anyone who instigates, aids or abets the commission of a criminal offence (Penal Code, sects. 107 et seq.). Attempt is punishable under section 511 PC. Such liability is also addressed in the ACL, and includes criminal liability for persons who instigate, attempt, conspire, abet or manage to commit any corruption offence under the Law (sects. 3 (v) and 63). Preparation to commit a criminal offence is not criminalized except to the extent that it constitutes an attempt.

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

Under the PC and the ACL, punishment is imposed in proportion with the gravity of the offence and the degree of responsibility of the offender. The CPC provides discretion to judges to impose sentences consistent with these factors. Certain aggravating and mitigating factors may apply.

While there are some functional immunities applicable in Myanmar, in particular to members of the judiciary, ACC and parliamentarians in the performance of their official duties in good faith, Myanmar reported that these immunities do not pose an obstacle to the investigation and prosecution of corruption cases. To lift the immunity of members of Parliament, only the approval of the Speaker of Parliament is required, and only when the Parliament is in session.

The Attorney General's Office (AGO), the ACC, the Bureau of Special Investigation and other relevant law enforcement bodies exercise a wide range of discretion in carrying out their duties. Myanmar follows a system of discretionary prosecution. The ACC seeks legal advice from the AGO with regard to the prosecution of corruption cases and then files the cases in the courts for trial.

The CPC sets forth procedures for determining whether and under what conditions a person charged with a criminal offence is eligible for bail. Convention offences are mostly non-bailable offences. There are only very limited possibilities for early release or parole.

Under rule 177 of the Civil Service Personnel Rules, a public servant who has been accused of a criminal offence (including corruption) may be removed, suspended or reassigned depending on the nature and seriousness of the alleged offence and pending the outcome of the investigation. In addition, rule 210 (5) provides that persons convicted of criminal offences may be dismissed and cannot reapply to work in the public service. Staff of state-owned enterprises are considered civil servants. A public official can be subject to disciplinary procedures regardless of the outcome of a criminal investigation or prosecution. The Union Judiciary Law states that the reintegration of offenders into society is one of the primary principles of the administration of justice in Myanmar.

Regarding cooperation with law enforcement authorities, the CPC (sect. 337 et seq.) permits the judge to conditionally pardon an offender who fully cooperates, and also provides a form of immunity from further prosecution or punishment. Cooperating offenders are considered witnesses under Myanmar law and subject to applicable protection measures. It is also possible under the ACL and the MLA Law to make a cooperating offender available to other jurisdictions in relevant investigations and prosecutions.

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

Myanmar does not have a formal witness protection programme, but the powers of the Commission include providing "necessary protection" to persons providing evidence of corruption offences (sect. 17 (i) ACL). Such measures include keeping the identity of persons providing information or assistance confidential (AC Rules, rule 62). In addition, under the Evidence Act (sect. 60 A), procedures are available to use video technology and remote testimony to facilitate the testimony of witnesses and experts. There are no agreements presently in place between Myanmar and other States for the relocation of witnesses.

Victims can be considered to be witnesses on a case-by-case basis subject to the relevant protection measures and procedures described above. In order to enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings, section 493 CPC allows the victim to instruct a "pleader" to act in court on his behalf.

Beyond the powers of the ACC to give "necessary protection" to persons reporting corruption, there are no additional measures or procedures to provide protection against unjustified treatment to persons who report facts concerning Convention offences in Myanmar. In addition, there is no legislation in Myanmar to address the protection of whistle-blowers in the private sector.

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

Under the ACL (arts. 51-54) and the AML Law (art. 52), it is possible to identify, trace, freeze, seize and confiscate all proceeds derived from an offence or their monetary equivalent, including in cases where the proceeds of crime have been transformed or converted into other property. The AC Rules permit the Commission to seize all forms of property in the execution of searches and the conduct of investigations (rule 8 (e)) and refer to the CPC (sects. 516, 517, 523 and 524) for confiscation. Accordingly, instrumentalities can be confiscated under rule 63, section 517 CPC. Confiscation procedures extend to income or other benefits derived from such proceeds of crime, since they are included in the definition of proceeds of crime (sect. 3 (q) AML Law).

Rule 46 (b) of the AC Rules provides that the Commission shall manage property confiscated during the course of an investigation. No further procedures are in place, however, as to how such property is managed prior to a decision on confiscation or return.

Bank secrecy does not prevent the prosecutor, upon a court order, or the Anti-Corruption Commission, without the need for a court order, to request and obtain financial or bank records relating to the proceeds of crime.

Myanmar has implemented procedures envisaged in article 31 (8) that require an offender to demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation in section 64 ACL and section 60 AML Law.

Provisions of the ACL and the AML Law protect the interests of bona fide third parties (sect. 54 ACL, sect. 62 AML Law).

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

In Myanmar, there is no statute of limitations applicable to criminal offences.

Myanmar has not implemented article 41.

*Jurisdiction (art. 42)*

Myanmar has jurisdiction over the offences established in accordance with the Convention when the offence is committed in whole or in part in its territory (sect. 2 PC). For acts committed on board a vessel that is flying the flag of Myanmar or an aircraft, jurisdiction is only established in section 2 AML Law. In addition, offences committed abroad by citizens of Myanmar are punishable in Myanmar (sect. 4 PC, sect. 2 ACL). Myanmar has not implemented the passive personality principle or established jurisdiction over participatory acts to money-laundering committed outside the country. Although Myanmar cannot extradite its nationals, Myanmar as a general rule prosecutes its nationals in cases where there is no extradition (sect. 3 PC). The ACC can consult with its foreign counterparts on the basis of section 16 (n) ACL and rule 60 of the AC Rules.

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

Provisions of the Contract Act and the Specific Relief Act (1877) establish procedures for persons seeking to annul or rescind a contract, or take other appropriate measures, as a result of the commission of Convention offences. If a

contract is vitiated by corruption, it is void ab initio (sect. 23 of the Contract Act). Sanctions are also available under administrative law, company law and the AML Law.

Moreover, common-law remedial principles derived from the law of tort permit entities or persons who have suffered damage as a result of an act of corruption to initiate legal proceedings claiming compensation from those responsible for the damage.

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

Pursuant to the ACL, Myanmar established the Anti-Corruption Commission as the primary, but not exclusive, body for the investigation of Convention offences. In addition, this investigative capacity is supplemented by other specialized law enforcement and oversight institutions, including the Myanmar Police Force and the Bureau of Special Investigation. The ACC reports directly to the President of Myanmar and functions as an operationally independent government institution.

Sections 16 and 17 of the ACL empower the Commission to take measures to coordinate and share information with relevant governmental departments, ministries and organizations in the prevention and investigation of corruption. Additional functions of the Commission include conducting outreach and awareness-raising activities for public servants in government ministries and offices throughout Myanmar.

The functions and duties of the ACC extend to working with financial institutions, the private sector and non-governmental organizations in the implementation of the ACL. This includes working with private persons on how to detect and report possible corruption cases to the competent authorities.

The Financial Intelligence Department is the designated body to receive, request, analyse and disseminate threshold transaction reports and suspicious transaction reports. Upon request of the ACC, the Financial Intelligence Department can support the investigation of corruption cases. If needed, the ACC coordinates joint investigations on corruption with the Anti-Financial Crime Division and the Bureau of Special Investigation.

Cooperation by other government departments and non-governmental organizations with the ACC is mandated by section 17 (e) ACL.

Myanmar can encourage its nationals and residents to report corruption offences to the relevant national authorities, e.g. by giving rewards (sect. 17 (i) ACL). However, the ACL, unlike the Bureau of Special Investigation, does not accept anonymous complaints.

## **2.2. Successes and good practices**

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Inclusion of “reason to know” that assets are proceeds of crime for the purpose of art. 23 (1) (a).

- Scope of criminal offence prohibiting the use of force, threats or intimidation to interfere with the exercise of official duties by any public servant, including justice or law enforcement officials (art. 25 (b)).
- Implementation of the requirement that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation in (art. 31 (8)).

### **2.3. Challenges in implementation**

The following steps could further strengthen existing anti-corruption measures in relation to the articles of the Convention:

- Amend the definition in section 3 (a) ACL to clarify that active bribery committed by private individuals is included (art. 15 (a)).
- Consider making active trading in influence a criminal offence (art. 18 (a)).
- Consider making bribery in the private sector a criminal offence (art. 21).
- Adopt relevant amendments to section 5 (j) of the AML Law to expressly incorporate all Convention offences as predicate offences to a money-laundering offence (art. 23 (2) (b)).
- Amend section 5 of the AML Law to include offences committed outside Myanmar as predicate offences (art. 23 (2) (c)).
- Consider the adoption of legislation to establish the criminal liability of legal persons for participation in Convention offences also outside money-laundering; consider increasing the maximum fine in section 45 AML Law (art. 26).
- Adopt additional legislative or other measures to regulate the administration by the competent authorities of frozen, seized or confiscated property in greater detail than rule 46 (b) of the AC Rules (art. 31 (3)).
- Consider taking additional appropriate measures to provide further protection to witnesses and cooperating offenders who provide information or testimony relevant to the investigation or prosecution of corruption offences, and for their relatives and other persons close to them (art. 32 (1)).
- Consider entering into agreements or arrangements with other States for the relocation of witnesses (art. 32 (2)).
- Consider the adoption of measures to provide effective protection against any unjustified treatment for persons who report facts concerning corruption offences to the competent authorities in the public and private sectors (art. 33).
- Consider taking additional measures as may be necessary to encourage and facilitate cooperation between the private sector and authorities responsible for investigating and prosecuting criminal offences (arts. 38 and 39 (1)).
- Consider taking additional measures to encourage Myanmar nationals and other persons living in Myanmar to report to the relevant authorities the commission of corruption offences, in particular by accepting anonymous complaints (art. 39 (2)).
- Consider implementing art. 41.



- Establish jurisdiction over all Convention offences when the offence is committed on board a vessel or an aircraft registered in Myanmar (art. 42 (1) (b)).
- Myanmar may establish its jurisdiction over Convention offences when the offence is committed against its nationals (art. 42 (2) (a)); when acts to abet money-laundering are committed outside its territory (art. 42 (2) (c)); or when the alleged offender is present in its territory and it does not extradite him or her (art. 42 (4)).

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

The following forms of technical assistance could assist Myanmar in implementing the Convention:

- Articles 19, 21, 23, 25, 26, 31, 32 and 35: need for training programmes, workshops and academic courses for both Commission staff and relevant Ministries.
- Article 36: develop the capacity of the ACC to conduct investigations.
- Article 38: support the development of procedures for coordination mechanisms among national authorities for the detection and investigation of corruption cases.
- Article 39: enhance the capacity of the ACC and other law enforcement authorities to gather information on corruption cases, including through the application of information technology.
- Article 40: Capacity development through training.

### **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)*

Myanmar makes extradition conditional on the existence of a treaty. Owing to its adherence to dualism, Myanmar cannot use the Convention as the legal basis for extradition for corruption offences.

Myanmar does not have any bilateral extradition treaties. Domestically, extradition is, in theory, still regulated by the Burma Extradition Act of 1903. However, this act is not applicable to Convention offences because they are not listed in the schedule of extraditable offences. Therefore, article 44 is not implemented. A new extradition act is currently being drafted. While Myanmar has successfully requested the extradition of citizens from China and Thailand, it has not carried out any completed, formal extraditions. However, administrative renditions of foreign citizens to other countries have taken place (to China, Italy, Japan and Thailand).

The procedure for renditions is purely executive, requiring the approval of the President of Myanmar. It is unclear if constitutional and other fair treatment guarantees are observed in the rendition process.

Myanmar always requires dual criminality for extradition/rendition. However, in line with article 44 (2) of the Convention, the principle of dual criminality is applied flexibly, i.e., the underlying conduct is decisive for the assessment of dual criminality. Myanmar will consider requests for rendition if the offence is punishable with imprisonment of one year and above and if the requirement of reciprocity is fulfilled. It can provisionally arrest persons for the purpose of extradition/rendition.

Offences under the Convention are not considered political offences. Fiscal matters are no ground for refusal. Myanmar accepts requests in English and the Myanmar language.

Although the Constitution is silent on this point, it is generally assumed that Myanmar cannot extradite its nationals. The obligation to prosecute in lieu of extradition follows from section 3 PC.

Myanmar has not signed any bilateral or multilateral treaties on the transfer of sentenced persons. The transfer of criminal proceedings has not yet been considered.

*Mutual legal assistance (art. 46)*

Myanmar is a party to the Association of Southeast Asian Nations Treaty on Mutual Legal Assistance in Criminal Matters of 2004 and has a bilateral mutual legal assistance treaty with India. However, owing to its dualist tradition, treaties cannot be applied directly in Myanmar. Domestically, mutual legal assistance is governed by the Mutual Assistance in Criminal Matters Law (Law No. 4/2004) and the Mutual Assistance in Criminal Matters Rules. In the absence of provisions in the MLA Law and Rules, the CPC is applicable subsidiarily (rule 40).

Section 3 (a) of the MLA Law is interpreted to require dual criminality when fulfilling judicial assistance requests, even for non-coercive measures.

Since the definition of “person” in the law generally includes legal persons, MLA can, in principle, be afforded in relation to offences committed by legal persons. However, dual criminality is required and Myanmar has not established the criminal liability of legal persons. Myanmar can, in principle, afford all the forms of legal assistance listed in article 46 (3) of the Convention (sects. 11 and 25 MLA Law). The ACC has access to bank records without the need for a court order.

Myanmar domestic law does not provide for the transmission of information relating to criminal matters without prior request. However, the exchange of information is practised in relations between the Financial Intelligence Unit, the police and their foreign counterparts, respectively.

Myanmar can provide for the confidentiality of information (sect. 22 MLA Law). The confidentiality of the information provided will not prevent Myanmar from disclosing it when such information is exculpatory to an accused person. MLA will not be refused on the grounds of bank secrecy (sect. 18 MLA Law).

The temporary transfer of a person being detained or serving a sentence for the purpose of testimony is possible on the basis of sections 28-32 MLA Law. Safe conduct is granted on the basis of section 35. Myanmar permits hearings to take place by videoconference under certain circumstances (sect. 60 A Evidence Act).

The Ministry of Home Affairs is the focal ministry for MLA. However, the central authority for receiving requests for mutual legal assistance is a committee comprising 11 very high-ranking government officials, including the Minister of Home Affairs as chairman. The powers of the central authority may be delegated (sect. 7). In urgent cases, the chairman can perform the duties alone (sect. 8). Requests must contain the information listed in section 12 and have to be submitted in the Myanmar language or English. The procedure specified in the request can be followed, unless such a procedure conflicts with national law. In urgent cases, requests can be made orally or by electronic means (sect. 13). For outgoing requests, Myanmar follows the procedure specified by the receiving country, unless such a procedure conflicts with national law. The rule of specialty is enshrined in section 24 of the MLA Law.

Myanmar can refuse requests for MLA on the basis of section 18 MLA Law. This list is not exhaustive. Myanmar has to provide reasons for refusing a request (sect. 19). Prior to that, consultations would be held, although there is no direct legal basis for this. Assistance may be postponed by Myanmar on the grounds that it interferes with an ongoing investigation (sect. 17). Myanmar will carry out the request within the time stipulated by the requesting State (sects. 12 (e) and 21 (b)).

Ordinary costs related to rendering mutual legal assistance are borne by Myanmar (sect. 37). Documents in the public domain can be provided upon request, others on a case-by-case basis.

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

Myanmar does not take the Convention as a basis for mutual law enforcement cooperation in respect of the offences covered by it.

Myanmar is a member of the International Criminal Police Organization (INTERPOL). It shares information via INTERPOL and uses the I-24/7 secure network and INTERPOL notices. Since 2013, Myanmar has also been a member of the ASEAN Association of Chiefs of Police (ASEANAPOL) and the South-East Asia Parties against Corruption (SEA-PAC). However, the memorandum of understanding of SEA-PAC is not a binding international treaty and does not provide a legal basis for operational measures.

The ACC can cooperate with international organizations, regional organizations and foreign countries in the area of anti-corruption (sect. 16 (n) ACL). It concluded a bilateral memorandum of understanding with Viet Nam in 2015 and is currently negotiating one with Thailand.

The Myanmar Financial Intelligence Unit became a member of the Asia-Pacific Group on Money-laundering in 2006 and is planning to apply for membership in the Egmont Group of Financial Intelligence Units. It has a bilateral agreement with the financial intelligence units of Thailand and memorandums of understanding with its counterparts in a number of countries, including the United States of America.

Myanmar is not yet a member of the Asset Recovery Inter-agency Network for Asia and the Pacific (ARIN-AP).

Section 23 AML Law allows joint investigations in money-laundering cases, but none have been carried out yet. Section 114 A of the Evidence Act provides for the

admissibility of electronic evidence. The use of special investigative techniques has not yet been regulated.

### **3.2. Successes and good practices**

Overall, the following points are regarded as successes and good practices in the framework of implementing chapter IV of the Convention:

- The extensive use of informal law enforcement cooperation.

### **3.3. Challenges in implementation**

The following steps could further strengthen existing anti-corruption measures.

Myanmar is urged to prioritize the adoption of a comprehensive extradition act applicable to Convention offences. The new law should in particular contain the following elements:

- Include the possibility to extradite in the absence of a bilateral treaty, on the basis of reciprocity.
- Include the possibility for accessory extradition (art. 44 (3)).
- Clarify that Convention offences are not political offences (art. 44 (4)).
- Recognize all Convention offences as extraditable offences (art. 44 (7)).
- Observe the rule of specialty.
- Ensure that fair treatment is guaranteed at all stages of the proceedings (art. 44 (14)).
- Include the grounds for refusal listed in article 44 (15).
- Clarify that fiscal matters do not constitute a ground for refusal.
- Include the obligation to consult before refusing a request for extradition (art. 44 (17)).
- Myanmar is encouraged to conclude bilateral treaties on extradition (art. 44 (18)); it should ensure that all Convention offences are included in any extradition treaty as extraditable offences (art. 44 (4)).
- Myanmar may consider entering into bilateral or multilateral agreements or arrangements on the transfer of sentenced persons (art. 45).
- Ensure that non-coercive MLA is provided also in the absence of dual criminality (art. 46 (9)).
- Simplify the composition of the Central Authority to make it more workable or establish a permanent delegation of its powers, not only in urgent cases (art. 46 (13)).
- Clarify that requests will not be refused on the sole ground that the offence is also considered to involve fiscal matters (art. 46 (22)).
- Clarify that consultations will be held before a request is refused (art. 46 (26)).
- Consider the possibility of transferring criminal proceedings (art. 47).

- Consider concluding bilateral or multilateral agreements or arrangements to establish joint investigative bodies (art. 49).
- Take such measures as may be necessary to allow for controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, and allow for the admissibility in court of evidence derived therefrom (art. 50 (1)).
- Myanmar is encouraged to conclude agreements for using such special investigative techniques in the context of cooperation at the international level (art. 50 (2)).

#### **3.4. Technical assistance needs identified to improve implementation of the Convention**

Articles 44, 45, 48 and 49: Myanmar expressed the need for training programmes, workshops and academic courses for both Commission staff and relevant ministries;

Assistance has been requested for enhancing the capacity of the competent authorities to develop and file MLA requests.

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