



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

1 December 2005

Questionnaire on the implementation of the United Nations Convention against Transnational Organized Crime

The purpose of the present questionnaire is to collect information from States parties and signatories to the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) in accordance with guidance provided by the Conference of the Parties to the Convention at its second session and in the context of the programme of work approved at that session (CTOC/COP/2005/8, decision 2/1). The information to be provided will relate to the following areas, as determined by the Conference of the Parties, for consideration at its third session:

- (a) Measures to combat money-laundering (art. 7 of the Convention);
- (b) Measures related to the investigation of cases of transnational organized crime, with particular attention to articles 19, 20 and 26 of the Convention;
- (c) Matters related to the protection of witnesses and victims (arts. 24 and 25);
- (d) Matters related to international law enforcement cooperation (art. 27);
- (e) Matters related to preventive measures (art. 31).

Does your country need assistance in providing the information requested in this questionnaire?

Yes No

I. Domestic aspects

A. Measures to combat money-laundering

1. Has your country instituted a domestic regulatory and supervisory regime for banks and non-bank financial institutions or other bodies particularly susceptible to money-laundering in order to detect and deter all forms of money-laundering (art. 7, para. 1 (a), of the Convention)?

() Yes () No

- (a) If the answer is “No”, please explain.

.....
.....
.....

- (b) If the answer is “Yes”, please identify the institutions to which such a regime is applicable.¹

.....
.....
.....

- (c) If the answer is “Yes”, does your country’s regime require:

- (i) Customer identification?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

- (ii) Record-keeping?

() Yes () No

¹ According to the interpretative notes for the official records (*travaux préparatoires*) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, the words “other bodies” in article 7, paragraph 1 (a), of the Convention may be understood to include intermediaries, which in some jurisdictions may include stockbroking firms, other securities dealers, currency exchange bureaux or currency brokers (see A/55/383/Add.1, para. 14).

If the answer is “Yes”, please specify.

.....
.....
.....

(iii) Reporting of suspicious transactions?

Yes No

If the answer is “Yes”, please specify and provide any available information on, inter alia, the criteria used for identifying suspicious transactions² or the sanctions imposed for non-compliance with reporting requirements.

.....
.....
.....

2. Does your country’s legal framework enable the administrative, regulatory, law enforcement or judicial authorities in charge of efforts against money-laundering to cooperate and exchange information at the national level (art. 7, para. 1 (b))?

Yes No

(a) If the answer is “No”, please explain.

.....
.....
.....

- (b) If the answer is “Yes”, has a financial intelligence unit been established in your country to serve as a national centre for the collection, analysis and dissemination of information related to money-laundering activities?

Yes No

If the answer is “Yes”, please specify.

.....
.....
.....

² According to the interpretative notes for the official records (*travaux préparatoires*) of the negotiation of the Organized Crime Convention and the Protocols thereto, the words “suspicious transactions” may be understood to include unusual transactions that, by reason of their amount, characteristics and frequency, are inconsistent with the customer’s business activity, exceed the normally accepted parameters of the market or have no clear legal basis and could constitute or be connected with unlawful activities in general (see A/55/383/Add.1, para. 15).

-
3. Has your country implemented measures to detect and monitor the movement of cash and appropriate negotiable instruments across its borders (art. 7, para. 2)?

() Yes () No

If the answer is “Yes”, please specify and provide, in particular, any available information on safeguards to ensure the proper use of information and the unimpeded movement of legitimate capital.

.....
.....
.....
.....

Please provide either a copy of your country’s relevant legislation (or, where appropriate, relevant regulations and administrative rules), where feasible in electronic form, or website addresses, if any, where such legislation (or, where appropriate, regulations or rules) may be found.

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

4. Does your country’s legislation allow for the appropriate use of special investigative techniques for the purpose of effectively combating organized crime and, in particular, the use of (art. 20, para.1):

- (a) Controlled delivery?

() Yes () No

and/or

- (b) Electronic or other forms of surveillance?

() Yes () No

and/or

- (c) Undercover operations?

() Yes () No

5. If the answer to any or all the subsections of question 4 is “Yes”, please provide any available information on specific conditions prescribed by your country’s legislation under which the use of special investigative techniques is permitted.

.....
.....
.....
.....

6. Does your country take measures to encourage persons who participate or have participated in organized criminal groups to provide information useful to competent authorities for investigative and evidentiary purposes or any other concrete help that may contribute to depriving organized criminal groups of their resources or proceeds of crime (art. 26, para. 1)?

() Yes () No

7. If the answer to question 6 is “Yes”, does your country’s legal system provide for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence or offences covered by the Convention (art. 26, para. 2)?

() Yes () No

8. If the answer to question 6 is “Yes”, does your country’s legal system provide for the possibility of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence or offences covered by the Convention (art. 26, para. 3)?

() Yes () No

9. If the answer to questions 7 and 8 is “Yes”, please provide any available information on specific conditions prescribed by your country’s legislation to which the cooperation with law enforcement and investigative authorities is subject.

.....
.....
.....
.....

Please provide either a copy of your country’s relevant legislation (or, where appropriate, relevant regulations and administrative rules), where feasible in electronic form, or website addresses, if any, where such legislation (or, where appropriate, regulations or rules) may be found.

C. Measures related to the protection of witnesses and victims

10. Does your country’s legal system enable the provision of protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by the Convention (art. 24, para. 1)?

() Yes () No

11. If the answer to question 10 is “No”, please explain.

.....
.....
.....

12. If the answer to question 10 is “Yes”, does your country’s legal system extend protection to relatives of witnesses or other persons close to them?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

13. If the answer to question 10 is “Yes”, does your country’s legal system enable:

(a) The establishment of procedures for the physical protection of witnesses, including their relocation and the non-disclosure or limitations on the disclosure of information concerning their identity and whereabouts (art. 24, para. 2 (a))?

() Yes () No

If the answer is “Yes”, please specify and provide any available information on constitutional or other basic legal requirements existing in your country’s legal system, if any, and related to the protection of basic rights of the defendant while implementing protective measures for witnesses.

.....
.....
.....

(b) The establishment or adjustment of domestic evidentiary rules that would permit witness testimony to be given in a manner that ensures the safety of the witness (art. 24, para. 2 (b))?

() Yes () No

If the answer is “Yes”, please specify and provide any available information on constitutional or other basic legal requirements existing in your country’s legal system, if any, and related to the protection of basic rights of the defendant while implementing protective measures for witnesses.

.....
.....
.....

-
-
-
14. Does your country's legislation enable the provision of assistance to and protection of victims of offences covered by the Convention, in particular in cases of threat of retaliation or intimidation (art. 25, para. 1)?

() Yes () No

15. If the answer to question 14 is "No", please explain.

.....

.....

.....

16. Does your country's legislation establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by the Convention (art. 25, para. 2)?

() Yes () No

If the answer is "Yes", please specify.

.....

.....

.....

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

() Yes () No

If the answer is "Yes", please specify and provide any available information on constitutional or other basic legal requirements existing in your country's legal system, if any, and related to the protection of basic rights of the defendant while implementing protective measures for victims.

.....

.....

.....

Please provide either a copy of your country's relevant legislation (or, where appropriate, relevant regulations and administrative rules), where feasible in electronic form, or website addresses, if any, where such legislation (or, where appropriate, regulations or rules) may be found.

D. Preventive measures

18. Has your country developed any national projects or established and promoted best practices and policies aimed at the prevention of transnational organized crime (art. 31, para. 1)?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

19. Has your country adopted measures to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime (art. 31, para. 2), including:

- (a) The strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry?

() Yes () No

and/or

- (b) The promotion of the development of standards and procedures designed to safeguard the integrity of public and relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants?

() Yes () No

and/or

- (c) The prevention of the misuse of legal persons by organized criminal groups, in particular by:

- (i) The establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons and the exchange of information contained therein?

() Yes () No

and/or

- (ii) The introduction of the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by the Convention from acting as directors of legal persons domiciled in your country’s jurisdiction?

() Yes () No

and/or

(iii) The establishment of national records of persons disqualified from acting as directors of legal persons and the exchange of information contained therein?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

20. Does your country’s legislation enable the reintegration into society of persons convicted of offences covered by the Convention (art. 31, para. 3)?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

21. Have your country’s competent authorities taken any action to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups (art. 31, para. 4)?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

22. Have your country’s competent authorities taken any action to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime, as well as public participation in preventing and combating such crime (art. 31, para. 5)?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

II. International cooperation

A. Measures to combat money-laundering

23. Does your country's legal and operational framework enable the administrative, regulatory, law enforcement or judicial authorities in charge of efforts against money-laundering to cooperate and exchange information at the international level (art. 7, para. 1 (b))?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

24. Does your country participate in any global, regional, subregional or bilateral schemes geared towards promoting cooperation between judicial, law enforcement and financial regulatory authorities in order to combat money-laundering (art. 7, para. 4)?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

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

25. Has your country entered into any bilateral or multilateral agreement or arrangement whereby, in relation to matters that are the subject of investigation, prosecution or judicial proceedings in one or more States parties, the competent authorities concerned may establish joint investigative bodies (art. 19)?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

-
26. In the absence of any agreement or arrangement of the sort referred to in question 25, does your country's legislation permit joint investigations on a case-by-case basis?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

27. Has your country concluded any bilateral or acceded to any multilateral agreement or arrangement for using special investigative techniques, as mentioned in question 4 above, in the context of international cooperation to combat transnational organized crime (art. 20, para. 2)?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

28. In the absence of any agreement or arrangement of the sort referred to in question 27, does your country's legislation permit the use of special investigative techniques at the international level on a case-by-case basis?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

29. Has your country entered into any bilateral or multilateral agreement or arrangement with other States parties concerning the treatment (mitigating punishment, immunity) of persons mentioned in question 6 who can provide substantial cooperation to the competent law enforcement and investigative authorities of either contracting party (art. 26, para. 5)?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

C. Measures to protect witnesses and victims

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

Yes No

If the answer is “Yes”, please specify.

.....
.....
.....

31. Has your country entered into any bilateral or multilateral agreement or arrangement on mutual legal assistance that provides for the possibility of conducting a hearing by videoconference where it is not feasible or desirable for the witness to appear in person before the judicial authorities of the foreign State (art. 18, para. 18)?

Yes No

If the answer is “Yes”, please specify. Does your country have the technical facilities to support hearings by videoconference? Please describe.

.....
.....
.....

D. Measures related to international law enforcement cooperation

32. Have the competent authorities of your country established or enhanced channels of communication with their counterparts in other States parties in order to facilitate the secure and rapid exchange of information concerning all aspects of offences covered by the Convention, including, where appropriate, links with other criminal activities (art. 27, para. 1 (a))?

Yes No

If the answer is “Yes”, please specify.

.....
.....
.....

33. Has your country taken any measures to promote law enforcement cooperation with other States parties in conducting inquiries with respect to offences covered by the Convention (art. 27, para. 1 (b)), in particular in relation to:

(a) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned?

() Yes () No

and/or

(b) The movement of proceeds of crime or property derived from the commission of such offences?

() Yes () No

and/or

(c) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

34. Has your country adopted any measures to provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes (art. 27, para. 1 (c))?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

35. Has your country adopted any measures to facilitate effective coordination with law enforcement authorities of other States parties and promote the exchange of personnel or the posting of liaison officers (art. 27, para. 1 (d))?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

36. Has your country adopted any measures to promote the exchange of information with other States parties on specific means and methods used by organized criminal groups, including routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities (art. 27, para. 1 (e))?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

37. Has your country adopted any measures to promote the exchange of information and the coordination of administrative measures with other States parties for the purpose of early identification of the offences covered by the Convention (art. 27, para. 1 (f))?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

38. Has your country entered into any bilateral or multilateral agreement or arrangement on direct cooperation between law enforcement agencies (art. 27, para. 2)?

() Yes () No

If the answer is "Yes", please specify.

.....
.....
.....

39. In the absence of any agreement or arrangement referred to in question 38, would your country consider the Convention as the legal basis for mutual law enforcement cooperation in respect of the offences covered by it (art. 27, para. 2)?

() Yes () No

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

() Yes () No

E. Preventive measures

41. Does your country have an authority or authorities that can assist other States parties in developing measures to prevent transnational organized crime (art. 31, para. 6)?

() Yes () No

42. If the answer to question 41 is “Yes”, please provide any available information related to the name and address of such authority or authorities.³

.....
.....
.....

43. Has your country been involved in collaboration schemes or projects with other States parties or relevant international and regional organizations in order to promote and develop measures to prevent transnational organized crime and, in particular, to alleviate the circumstances that render socially marginalized groups vulnerable to the action of such crime (art. 31, para. 7)?

() Yes () No

If the answer is “Yes”, please specify.

.....
.....
.....

III. Other information

44. Please provide any other information you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

.....
.....
.....
.....
.....
.....

³ States that have already responded to these questions in the context of the brief questionnaire on basic reporting obligations in accordance with decision 1/2 of the Conference of the Parties, may, if they deem it appropriate and necessary, update herewith the relevant information.

Country: _____

Date on which the questionnaire was received:
_____/_____/_____
(day/month/year)

The official(s) responsible for responding to the questionnaire is (are):

Ms./Mr. _____

Title and/or position: _____

Agency and/or office: _____

Mailing address: _____

Telephone number: _____

Telefax number: _____

E-mail address: _____

Completed questionnaires should be sent to:

United Nations Office on Drugs and Crime
Vienna International Centre
P.O. Box 500
1400 Vienna, Austria

E-mail: untoc.cop@unodc.org
Tel.: + 43 (1) 26060 5762
Direct fax: + 43 (1) 26060 73957
