

No. 4 Pacific Anti-Corruption Factsheet

UNCAC Chapter IV - International Cooperation

Corruption does not respect territorial boundaries. It therefore requires an international response, because of its links to transnational organized and other crimes. Countries now recognize the need for action that goes beyond borders and acknowledge the benefits of cooperation and the sharing of information.

Chapter IV of the United Nations Convention against Corruption (UNCAC) seeks to facilitate international cooperation and outlines States parties' obligations. Countries are required to provide official support to requests for extradition and mutual legal assistance (MLA), including the arrest and detention of offenders, and the gathering and transferring of evidence for its use in court proceedings. Countries must also take steps to support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

Extradition is the surrender by one State, at the request of another, of a person who is accused of or has been sentenced for a crime committed within the jurisdiction of the requesting State. The Convention sets out the obligations for extradition that apply to States parties.

The Convention uses a conduct-based definition of dual criminality that maximizes the range of offences eligible for extradition, so long as the requirement of dual criminality is met under a State's domestic legal system.

If the conduct for which extradition is sought is punishable by law in both the requesting and the requested States, extradition applies. In addition, a State can agree to extradite a person for an UNCAC offence that is not punishable under its own law (e.g. if the law is silent on this). If a State does not agree to another State's request to extradite a person, it is obliged to submit the case to its own authorities for prosecution. UNCAC aims to avoid safe havens on the ground

Mutual legal assistance (MLA) is one of the most decisive weapons that States have to fight serious international crime. For MLA requests to be effective, they often need to be generated quickly and in such a way as to avoid legal obstacles that can arise when criminal justice practitioners from different legal systems attempt to work together.

The **MLA Request Writer Tool** was developed by UNODC to assist States to draft requests with a view to facilitate and strengthen international cooperation.

For more details, see:

<https://www.unodc.org/mla/introduction.html>

of nationality and obliges States to prosecute or extradite their nationals (*aut dedere aut judicare*).

States parties must offer one another broad **mutual legal assistance** in investigations, prosecutions and judicial proceedings arising from UNCAC offences, including for:

- Taking evidence or statements from persons;
- Effecting service of judicial documents;
- Executing searches and seizures;
- Examining objects and sites;
- Providing information, evidentiary items and expert evaluations;
- Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- Identifying or tracing the proceeds of crime, property, or other things for evidentiary purposes;
- Facilitating the voluntary appearance of persons in the requesting State party; and

- Identifying, freezing and tracing the proceeds of crime and the recovery of assets.

States parties are also required to designate a central authority that can receive and execute MLA requests and ensure that such requests are dealt with quickly and properly.

States may consider entering into bilateral or multilateral agreements regarding the **transfer of sentenced persons** to their territory to carry out their sentences. Another option to consider is the **transfer of criminal proceedings** to another State for the prosecution of an offence if that best advances the administration of justice, in particular where several jurisdictions are involved.

The Convention requires close **law enforcement cooperation** between States to enhance the effectiveness of action to combat corruption offences, including by:

- Establishing or enhancing existing channels of communication between authorities to facilitate the secure and rapid exchange of offence-related information; and
- Cooperating to conduct enquiries concerning individuals suspected of being involved in UNCAC offences and the movement of the proceeds of crime or property.

The Convention requires States to consider entering into MLA arrangements or amending

UNCAC tries to simplify arrangements for countries by allowing the Convention to be used as a legal basis for extradition, as well as for MLA and law enforcement cooperation. This means that a State does not need to have or create agreements with other States specifically for the purposes of meeting these obligations under UNCAC, but rather can rely on the **Convention itself as the legal basis for action** arising from any offence covered by the Convention.

Regional law enforcement cooperation in the Pacific regularly occurs through the Pacific Transnational Crime Network (PTCN) and its Coordination Centre, based in Samoa.

The Pacific Transnational Crime Network (PTCN) was established in 2002 in response to the emergence of significant transnational crime in the Pacific region. The Network has expanded to a multi-agency law enforcement approach, consisting of police, customs and immigration officers, other agencies and stakeholders.

PTCN consists of 28 locally staffed Transnational Crime Units located in 20 Pacific Island countries.

For more details, see: <https://picp.co.nz/our-work/pacifictransnational-crime-network-ptcn/>

existing arrangements to give effect to the Convention. UNCAC further requires States to consider establishing **joint investigative** bodies or conduct joint investigations on a case-by-case basis, where matters arise that are the subject of investigations, prosecutions or judicial proceedings in one or more States.

Finally, States are required to consider the use of **special investigative techniques**, such as electronic or other forms of surveillance and undercover operations, and to allow for the admissibility in court of the evidence derived from these activities.

Chapter IV seeks to eliminate hiding places for those engaged in corrupt activity. It binds countries to cooperate in the prevention, investigation and prosecution of corruption. Chapter V on asset recovery goes one step further by requiring States to recover and return assets that are obtained corruptly. This ensures that there is no hiding place for assets derived from corruption (for more details on UNCAC Chapter V, see Factsheet #5).

Chapter IV of UNCAC is available at: https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

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