

# **Inventory of Philippine Compliance with the United Nations Convention Against Corruption (UNCAC)**

## **Chapter IV – International Cooperation**

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| UNCAC PROVISIONS ON INTERNATIONAL COOPERATION  | PHILIPPINES LEVEL OF COMPLIANCE | IDENTIFIED GAPS AND CHALLENGES |
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| <p><b>ARTICLE 43. INTERNATIONAL COOPERATION</b></p>  |                                 |                                |
| <p><i>1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.</i></p> <p><i>2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.</i></p> |                                 |                                |

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| <b>ARTICLE 44. EXTRADITION</b>   |                                 |  |
| <p><b>Paragraph 1</b><br/> <i>1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.</i></p> | Partially Implemented           | To fully implement the provision under review, the Philippines should criminalize bribery of foreign public officials and officials of public international organizations, as required under article 16 of the Convention. |
| <p><b>Paragraph 2</b><br/> <i>2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.</i></p>  | Not implemented                 | Subject to compliance with domestic legal processes, the Philippines is considering the amendment of its declaration so that it can use the Convention as a basis for extradition provided that there is dual criminality. |

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| <b>ARTICLE 44. EXTRADITION</b>   |                                 |  |
| <p><b>Paragraph 3</b></p> <p><i>3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.</i></p>  | Partially Implemented           | To fully implement the provision under review, the Philippines should criminalize bribery of foreign public officials and officials of public international organizations, as required under article 16 of the Convention. |
| <p><b>Paragraph 4</b></p> <p><i>4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.</i></p> | Partially Implemented           | To fully implement the provision, all of the UNCAC offences would need to be criminalized.   |

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| <b>ARTICLE 44. EXTRADITION</b>  |                                 |   |
| <p><b>Paragraph 5</b></p> <p><i>5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.</i></p>   | Not implemented                 | <p><i>The Philippines has made a declaration that it cannot consider the Convention as a legal basis for cooperation on extradition with other States. However, subject to compliance with domestic legal processes, the Philippines is considering the amendment of its declaration, so that it can use the Convention as a basis for extradition provided that dual criminality is satisfied.</i></p> |
| <p><b>Subparagraph 6</b></p> <p><i>6. A State Party that makes extradition conditional on the existence of a treaty shall:</i></p> <p><i>(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and</i></p> | Implemented                     | <p>The Philippines has made a declaration that it cannot consider the Convention as a legal basis for cooperation on extradition with other States. However, subject to compliance with domestic legal processes, the Philippines is considering the amendment of its declaration, so that it can use the Convention as a basis for extradition provided that dual criminality is satisfied.</p>        |

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| <i>(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.</i>  |   |                                |
| <p><b>Paragraph 7</b></p> <p><i>7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.</i></p>  | <p>The provision does not apply, since the Philippines makes extradition conditional on the existence of a treaty or convention.</p>  |                                |
| <p><b>Paragraph 8</b></p> <p><i>8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.</i></p> | <p>Fully implemented</p> <p>The general conditions for extradition are set forth in P.D. No. 1069, while the specific minimum penalty requirements as well as the mandatory and discretionary grounds for refusing a request for extradition are provided for in existing treaties.</p> |                                |

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| <b>ARTICLE 44. EXTRADITION</b>  |  |                                |
| <p><b>Paragraph 9</b><br/> <i>9. States Parties shall, subject to their domestic law, endeavor to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.</i></p>  | <p>Fully Implemented</p> <p>Provisions of P.D. No. 1069; SEC. 5. Duty of Secretary of Foreign Affairs; Referral of Requests: Filing of Petition.</p>   |                                |
| <p><b>Paragraph 10</b><br/> <i>10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.</i></p> | <p>Fully implemented</p> <p>The Philippines has implemented the measures of the provision, referring to P.D. No. 1069.</p> <p><b>Provisions of P.D. No. 1069</b><br/> <b>SEC. 6. Issuance of Summons; Temporary Arrest; Hearing, Service of Notices.</b></p> |                                |

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| <p><b>Paragraph 11</b></p> <p><i>11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.</i></p> | <p>Fully implemented</p> <p>Under existing treaties, extradition of a Filipino national is one of the discretionary grounds for refusing a request for extradition, with the exception of the extradition treaties with India, the United Kingdom and the United States which contain an explicit provision to the effect that extradition shall not be refused on the ground that the person sought is a citizen of the Requested State.</p> <p>To date, the Philippines has not refused a request for extradition on the sole basis that the person sought to be extradited is its own national.</p> |                                |



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| <b>ARTICLE 44. EXTRADITION</b>   |  |                                |
| <p><b>Paragraph 12</b></p> <p><i>12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.</i></p> | <p>Fully implemented</p> <p>To date, the Philippines not refused a request for extradition on the sole basis that the person sought to be extradited is its own national. Moreover, P.D. No. 1069 and the existing treaties do not impose as a condition for the extradition of Filipino nationals that the service of sentence, in case of conviction, be in the Philippines.</p> |                                |
| <p><b>Paragraph 13</b></p> <p><i>13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.</i></p>  | <p>Fully implemented</p> <p>To date, the Philippines has yet to refuse a request for extradition on the sole basis that the person sought to be extradited is its own national. There is no domestic law which would authorize the enforcement in the Philippines of a sentence imposed under the domestic law of a foreign state.</p>   |                                |

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| <b>ARTICLE 44. EXTRADITION</b>   |  |  |
| <p><b>Paragraph 14</b></p> <p><i>14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.</i></p>  | <p>Fully implemented</p> <p>The Philippines has implemented the measures of the provision, referring to provisions of P.D. No. 1069:</p> |  |
| <p><b>Paragraph 15</b></p> <p><i>15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.</i></p> | <p>Partially implemented</p>   | <p>This mandatory ground for denying a request for extradition is present in all bilateral extradition treaties, with the exception of India, Indonesia, Thailand and the United States. The provision is partially implemented, as there are some exceptions in the extradition treaties of India, Indonesia, Thailand and the USA.</p> |

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| <p><b>Paragraph 16</b><br/> <i>16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.</i></p>  | Partially implemented  | The provision is partially implemented, since the bilateral extradition treaties do not mention that fiscal offenses are considered as extraditable offenses. |
| <p><b>Paragraph 17</b><br/> <i>17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.</i></p> | Partially implemented  | The provision is partially implemented, since the two bilateral treaties with Indonesia and Thailand do not conform with the provisions of the provision.     |
| <p><b>Paragraph 18</b><br/> <i>18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.</i></p>   | <p>Fully Implemented</p> <p><i>The Philippines has implemented the provision. As referred to above, it has concluded thirteen (13) bilateral extradition treaties. With the exception of the Federated States of Micronesia, the other treaty partners of the Philippines are all State parties to the Convention.</i></p> |   |

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| <p><b>ARTICLE 45. TRANSFER OF SENTENCED PERSONS</b></p> <p><i>States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.</i></p> | <p>Fully implemented</p>  |  |
| <p><b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b></p>  |   | <p>.</p>   |
| <p><b>Paragraph 1</b></p> <p><i>1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.</i></p>  | <p>Fully implemented</p> <p>The Philippines provides mutual legal assistance in criminal matters to other States using as bases, among others, the provisions of existing bilateral and regional Mutual Legal Assistance Treaties (MLATs) as well as the “mini-MLATs” contained in the various United Nations Conventions to which the Philippines is a State party. Mutual legal assistance may also be provided pursuant to Republic Act No. 9160 (Anti-Money Laundering Act of 2001), as amended by R.A. No. 9194.</p> | <p>Technical assistance in the drafting of a national legislation on mutual legal assistance in criminal matters</p> |

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| <p><b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b></p>   |  |                                |
| <p><b>Paragraph 2</b><br/> <i>2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.</i></p>   | <p>Fully implemented</p> <p>These provisions apply also with respect to offenses committed by a legal person for which he may be held liable under article 26 of the Convention.</p> <p>DOJ REPLY - MLATs are entered into to provide assistance to the Contracting Parties in connection with the prevention, investigation and prosecution of criminal offenses and in proceedings related to criminal matters without making any qualification as to whether the crime being investigated is committed by natural or juridical/legal persons.</p> |                                |
| <p><b>Subparagraph 3 (a) to (i)</b><br/> <i>3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:</i><br/> <i>(a) Taking evidence or statements from persons;</i><br/> <i>(b) Effecting service of judicial documents;</i><br/> <i>(c) Executing searches and seizures, and freezing;</i><br/> <i>(d) Examining objects and sites;</i><br/> <i>(e) Providing information, evidentiary items and expert evaluations;</i></p> |  |                                |

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| <p><b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b></p>  |   |                                |
| <p><i>(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;</i></p> <p><i>(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;</i></p> <p><i>(h) Facilitating the voluntary appearance of persons in the requesting State Party;</i></p> <p><i>(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;</i></p> |   |                                |
| <p><b>Subparagraph 3 (j) to (k)</b></p> <p><i>3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:</i></p> <p><i>(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;</i></p> <p><i>(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.</i></p>  | <p>Fully implemented</p> <p>The Philippines has implemented the measures of the provision, referring to section 13 of AMLA.</p> |                                |

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| <p><b>Paragraph 4</b></p> <p><i>4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.</i></p>  | <p>Partially implemented</p> <p>This provision on spontaneous information is present in the PH-Switzerland and PH-United Kingdom MLAT.</p> <p>since the presented information relates to money laundering offences only.</p>                          |                                |
| <p><b>Paragraph 5</b></p> <p><i>5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.</i></p> | <p>Fully Implemented</p> <p>The provision on spontaneous information is present in the PH-Switzerland and PH-United Kingdom MLAT.</p> <p>178. The provisions on “Confidentiality and Limitations on Use” are present in existing bilateral MLATs.</p> |                                |

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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>  |   |                                |
| <p><b>Paragraph 6</b><br/> <i>6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.</i></p>  |   |                                |
| <p><b>Paragraph 7</b><br/> <i>7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply those paragraphs if they facilitate cooperation.</i></p> |   |                                |
| <p><b>Paragraph 8</b><br/> <i>8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.</i></p>   | <p>Fully complied/implemented</p> <p>AMLC powers (Section 11)</p> |                                |



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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>   |   |                                |
| <p><b>Subparagraph 9 (a)</b><br/> <i>9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;</i></p>  | <p>Fully implemented</p> <p>The Philippines has implemented the measures of the provision, referring to section 13 AMLA. As a rule, the Philippines does not decline requests for mutual legal assistance, be they treaty or non-treaty based, on the ground of absence of dual criminality.</p>                                    |                                |
| <p><b>Subparagraph 9 (b)</b><br/> <i>9.(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;</i></p> | <p>Fully implemented</p> <p>As a rule, the Philippines does not decline requests for mutual legal assistance, be they treaty or non-treaty based, on the ground of absence of dual criminality. Dual criminality is also not a requirement for providing assistance to foreign States under Section 13 of the AMLA, as amended.</p> |                                |
| <p><b>Subparagraph 9 (c)</b><br/> <i>9. (c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.</i></p>  | <p>Fully implemented</p> <p>As a rule, the Philippines does not decline requests for mutual legal assistance, be they treaty or non-treaty based, on the ground of absence of dual criminality. Dual criminality is also not a requirement for providing assistance to foreign States under Section 13 of the AMLA, as amended.</p> |                                |

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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>   |   |                                |
| <p><b>Subparagraph 10</b></p> <p><i>10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:</i></p> <p><i>(a) The person freely gives his or her informed consent;</i></p> <p><i>(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.</i></p> | <p>Fully Implemented</p> <p>The “Transfer of Detained Person Provision” is present in existing MLATs. However, the Philippines has not received a request for mutual legal assistance which requires the application of this provision.</p> |                                |
| <p><b>Subparagraph 11 (a) to (d)</b></p> <p><i>11. For the purposes of paragraph 10 of this article:</i></p> <p><i>(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;</i></p>  | <p>Fully Implemented</p> <p>The “Transfer of Detained Person Provision” is present in existing MLATs. However, the Philippines has not received a request for mutual legal assistance which requires the application of this provision.</p> |                                |

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| <p><b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b></p> <p><i>(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;</i></p> <p><i>(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;</i></p> <p><i>(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.</i></p> |   |                                |
| <p><b>Paragraph 12</b></p> <p><i>12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.</i></p>  | <p>Fully Implemented</p> <p>This “Safe Conduct” provision is present in existing MLATs. However, the Philippines has not received a request for mutual legal assistance which requires the application of this provision.</p> |                                |

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| <p><b>Paragraph 13</b></p> <p><i>13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent Authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.</i></p> | <p>Fully implemented</p> <p>The Philippines has implemented the measures of the provision The Department of Justice, through the Office of the Chief State Counsel (Legal Staff), is the Central Authority under existing MLATs.</p> |                                |

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| <p><b>Paragraph 14</b></p> <p><i>14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.</i></p> | <p>Fully complied/implemented</p> <p>The Philippines made a declaration at the time of the deposit of its instrument of ratification that “(T)he acceptable language for requests for mutual assistance is English”.</p>   |                                |
| <p><b>Subparagraph 15 (a) to (f)</b></p> <p><i>15. A request for mutual legal assistance shall contain:</i></p> <p><i>(a) The identity of the authority making the request;</i></p> <p><i>(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;</i></p>   | <p>Fully implemented/complied</p> <p>These provisions are present in the MLATs of the Philippines. In addition, the Anti-Money Laundering Act (AMLA), as amended, allows the Anti-Money Laundering Council (AMLC) to extend mutual legal the Anti-Money Laundering Council (AMLC) to extend mutual legal assistance to a foreign State in accordance with Section 13 of the AMLA</p> |                                |

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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>   |   |                                |
| <p><i>(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;</i></p> <p><i>(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;</i></p> <p><i>(e) Where possible, the identity, location and nationality of any person concerned; and</i></p> <p><i>(f) The purpose for which the evidence, information or action is sought.</i></p> |   |                                |
| <p><b>Paragraph 16</b></p> <p><i>16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.</i></p>   | <p>Fully implemented/complied</p> <p>These provisions are present in the MLATs of the Philippines.</p>  |                                |
| <p><b>Paragraph 17</b></p> <p><i>17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.</i></p>   | <p>Fully implemented/complied</p> <p>This provision is present in the MLATs of the Philippines. To date, the execution of requests for MLA received by the Philippines have only required procedures within the confines of domestic law.</p> |                                |

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| <p><b>Paragraph 18</b><br/> <i>18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.</i></p>  | <p>Fully Implemented</p> <p>This provision is present in the MLATs of the Philippines. However, the Philippines has not received a request for mutual legal assistance which requires the application of this provision.</p>   |                                |
| <p><b>Paragraph 19</b><br/> <i>19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.</i></p> | <p>Fully complied/implemented</p> <p>The provision on “Limitations on Use” is present in the MLATs of the Philippines.</p> <p>The Philippines also reported that in practice it is standard for the Philippines to include in its transmittal letter to the requesting State a paragraph consistent with the “Limitations on Use” article of the MLAT being invoked. This also applies to non-treaty based requests for mutual legal assistance.</p> |                                |

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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>  |   |                                |
| <p><b>Paragraph 20</b></p> <p><i>20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.</i></p>   | <p>Fully complied/implemented</p> <p>The provisions on “Confidentiality and Limitations on Use” are present in existing Bilateral MLATs.</p> <p>The Philippines also provided an examples of implementation. The Philippines, pursuant to the PH-HKSAR MLAT, received a request for certified copies of documents.</p>  |                                |
| <p><b>Subparagraph 21 (a) to (d)</b></p> <p><i>21. Mutual legal assistance may be refused:</i></p> <p><i>(a) If the request is not made in conformity with the provisions of this article;</i></p> <p><i>(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, order public or other essential interests;</i></p> <p><i>(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation;</i></p> <p><i>(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.</i></p> | <p>Fully Implemented</p> <p>DOJ REPLY - Almost all of the PH’s MLATs provide as a discretionary ground for refusing a request for assistance the fact that the —execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests .</p> <p>DFA REPLY - The PH’s MLATs with China, Republic of Korea, Switzerland, Spain and the United States provide as a discretionary ground for refusing a request for assistance the fact that the —execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests . On the other hand, the PH’s MLATs with Australia and Hong Kong provide such as a mandatory ground for refusal.</p> |                                |



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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>  |  |                                |
| <p><b>Paragraph 22</b></p> <p><i>22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.</i></p>  | <p>Fully complied</p> <p>The provision on “Limitations on Assistance” are present in MLATs of the Philippines.</p>   |                                |
| <p><b>Paragraph 23</b></p> <p><i>23. Reasons shall be given for any refusal of mutual legal assistance.</i></p>   | <p>Fully complied</p> <p>This provision is present in MLATs of the Philippines.</p>  |                                |
| <p><b>Paragraph 24</b></p> <p><i>24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.</i></p> | <p>Fully complied</p> <p>This provision on the “Execution of Request” is present in all MLATs.</p> <p>The length of time between the receipt and the execution of the request largely depends on the nature or complexity of the request for assistance.</p> |                                |

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| <p><b>Paragraph 25</b></p> <p><i>25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.</i></p>   | <p>Fully complied</p> <p>This provision on the “Execution of Request” is present in all MLATs. It has been the practice of the Philippines to consult with the requesting State before refusing a request for assistance. The Philippines has not received any request that requires the application of this provision.</p>  |                                |
| <p><b>Paragraph 26</b></p> <p><i>26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.</i></p> | <p>Fully complied</p> <p>The provision on “Limitations of Assistance” is present in all MLATs.</p> <p>It has been the practice of the Philippines to consult with the requesting State before refusing a request for assistance. The Philippines has never denied a request for mutual legal assistance. The Philippines has not yet received any request that requires the application of this provision.</p> |                                |
| <p><b>Paragraph 27</b></p> <p><i>27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation,</i></p>  | <p>Fully complied</p> <p>This “Safe Conduct” provision is present in existing MLATs. It has been the practice of the Philippines to consult with the requesting State before refusing a</p>  |                                |

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| <p><b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b></p>   |   |                                |
| <p><i>Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.</i></p> |   |                                |
| <p><b>Paragraph 28</b><br/> <i>28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfill the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.</i></p>   | <p>Fully complied</p> <p>This provision on cost is present in all MLATs. All of the Philippines' MLATs contain provisions on Costs.</p> |                                |
| <p><b>Subparagraph 29 (a)</b><br/> <i>29. The requested State Party:<br/> (a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;</i></p>   | <p>Fully complied</p> <p>This provision on Records of Government Agencies exist in all MLATs.</p>                                       |                                |

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| <b>ARTICLE 46. MUTUAL LEGAL ASSISTANCE</b>   |  |                                |
| <p><b>Subparagraph 29 (b)</b><br/> 29. <i>The requested State Party:</i><br/> (b) <i>May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.</i></p>  |  |                                |
| <p><b>Paragraph 30</b><br/> 30. <i>States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.</i></p>  | <p>Fully complied</p> <p>As noted in paragraph 1, the Philippines has signed eight (8) bilateral MLATs and is a State party to the Treaty on Mutual Legal Assistance on Criminal Matters (“ASEAN MLAT”).</p> |                                |
| <p><b>ARTICLE 47. TRANSFER OF CRIMINAL PROCEEDINGS</b></p> <p><i>States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.</i></p> | <p>Not implemented since no cases has been received on this matter.</p>  |                                |

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| <b>ARTICLE 48. LAW ENFORCEMENT COOPERATION</b>  |                                 |  |
| <p><b><i>Subparagraph 1 (a)</i></b><br/> <i>1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:</i></p> <p><i>(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;</i></p> | <p>Partially Implemented</p>    | <p>1. Specificities in our legal system: see law reform measures.</p> <p>2. Competing priorities: anti-corruption measures may compete with respective mandates of government agencies or entail additional efforts/taskings. It will involve funding and personnel requirements.</p> <p>3. Limited capacity (e.g. human/technological/institution/other ; please specify): there is no dedicated division in the PNP for anti-corruption cases. PCTC reiterated the need incorporate in the Ombudsman Bill this outcome.</p> <p>4. Limited resources for implementation</p> |
| <p><i>(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:</i></p> <p><i>(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;</i></p>  | <p>Partially Implemented</p>    |  |

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| <p><b>ARTICLE 48. LAW ENFORCEMENT COOPERATION</b></p>   |                                 |                                |
| <p><i>(ii) The movement of proceeds of crime or property derived from the commission of such offences;</i><br/> <i>(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;</i><br/> <i>(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;</i><br/> <i>(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;</i></p> |                                 |                                |
| <p><b>Subparagraph 1 (e)</b><br/> <i>1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:</i><br/> <i>(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;</i></p>                            |                                 |                                |

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| <p><b>Subparagraph 1 (f)</b></p> <p><i>1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:</i></p> <p><i>(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.</i></p>   |                                 |                                |
| <p><b>Paragraph 2</b></p> <p><i>2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.</i></p> | Partially Implemented           |                                |

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| <p><b>ARTICLE 48. LAW ENFORCEMENT COOPERATION</b></p>  |                                 |  |
| <p><b>Paragraph 3</b><br/> <i>3. States Parties shall endeavor to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.</i></p>   | <p>Partially Implemented</p>    |  |
| <p><b>ARTICLE 49. JOINT INVESTIGATIONS</b></p> <p><i>States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.</i></p> | <p>Partially Implemented</p>    | <p>AMLC conducts financial investigations through task forces for information gathering only. MLATs do not contain express provision on joint investigation.</p> <p>PNPs involvement on MLATs and MOUs with other countries usually revolve around on info sharing, coordination and assistance, the Directorate for Intelligence is the focal point of all foreign counterparts/organizations with official dealings in the PNP. Likewise cooperation primarily focuses on combating and preventing transnational crimes.</p> |



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| <p><b>ARTICLE 50. SPECIAL INVESTIGATIVE TECHNIQUES</b></p>   |                                 |   |
| <p><b>Paragraph 1</b></p> <p><i>1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.</i></p> | Partially Implemented           | Relevant technical assistance to aid agency compliance with UNCAC, which includes capacity enhancement and facilities, is needed.   |
| <p><b>Paragraph 2</b></p> <p><i>2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.</i></p>  | Partially Implemented           | An NBI Modernization Bill is pending with Congress which redefines the mandate of NBI and possibly include UNCAC compliance. (Timeframe and status in HOR, plus other reform bills) Reform bills pending before the House of Representatives: |

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| <b>ARTICLE 50. SPECIAL INVESTIGATIVE TECHNIQUES</b>  |  |  |
| <p><b>Paragraph 3</b></p> <p><i>3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.</i></p> | No response provided   |  |
| <p><b>Paragraph 4</b></p> <p><i>4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.</i></p>   | The Philippines has experience using controlled delivery on drug related cases but not on anti-corruption cases. | <ol style="list-style-type: none"> <li>1. Inter-agency co-ordination;</li> <li>2. Specificities in our legal system;</li> <li>3. Competing priorities;</li> <li>4. Limited capacity (e.g. human/technological/institution/other ; please specify);</li> <li>5. Limited resources for implementation (e.g. human/financial/other; please specify);</li> <li>6. Limited awareness of state-of-the-art special investigative techniques.</li> </ol> |