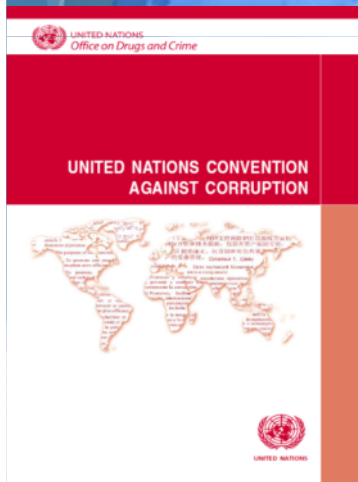


# Overview of the United Nations Convention against Corruption with Focus on International Cooperation



*Summer School for Junior Magistrates from South Eastern Europe:  
International Standards and Cooperation in the Fight Against Corruption  
7 June 2011, Slunchev Bryag, Bulgaria*

# The United Nations Convention against Corruption

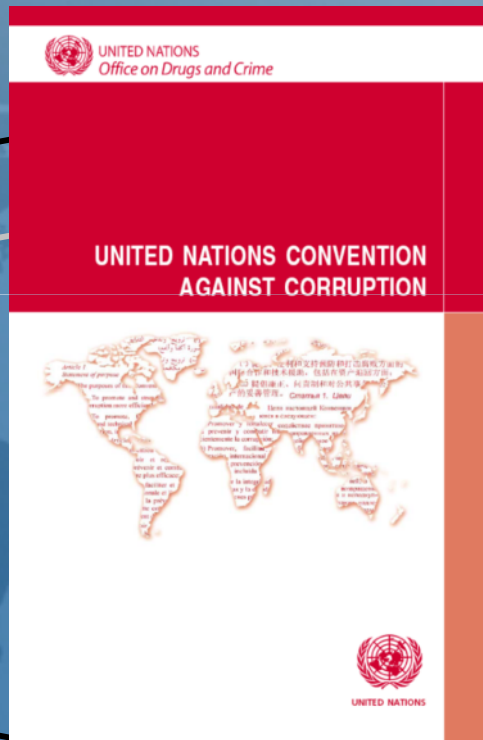
*Prevention*

*Criminalization  
Law Enforcement*

UNITED NATIONS CONVENTION  
AGAINST CORRUPTION

*Asset  
Recovery*

*International  
Cooperation*



## Use of Terms (Art.2)

**No Definition of Corruption**

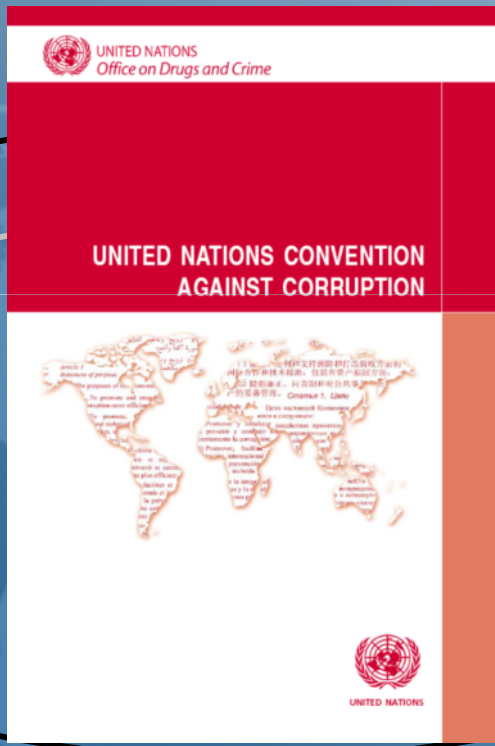
### **Broad and Comprehensive Definition of Public Officials**

- 1. Any Person Holding a Legislative, Executive, Administrative or Judicial Office**
- 2. Any Person Performing a Public Function or Providing a Public Service**
- 3. Any Other Person So Defined in the Domestic Law of State Party**

# UNCAC

**Prevention  
(Articles 5-14)**

**Criminalization  
Law Enforcement**



**Asset  
Recovery**

**International  
Cooperation**



# Anti-Corruption Policies and Bodies

## Requirements

***Art.5***

**Implement Effective and  
Coordinated Anti-Corruption  
Policies**

***Art.6***

**Ensure the Existence of  
Anti-Corruption Bodies**



# Preventive Measures(Art. 5-14)

Codes of Conduct (Art.8)

Public and Private Sectors  
Civil Society (Art.9)

*Transparency*  
*Integrity*  
*Accountability*

Integrity of Judiciary and  
Prosecution Service (Art.11)

Prevention of  
Money-Laundering (Art. 14)

# Preventive Measures in Private Sector

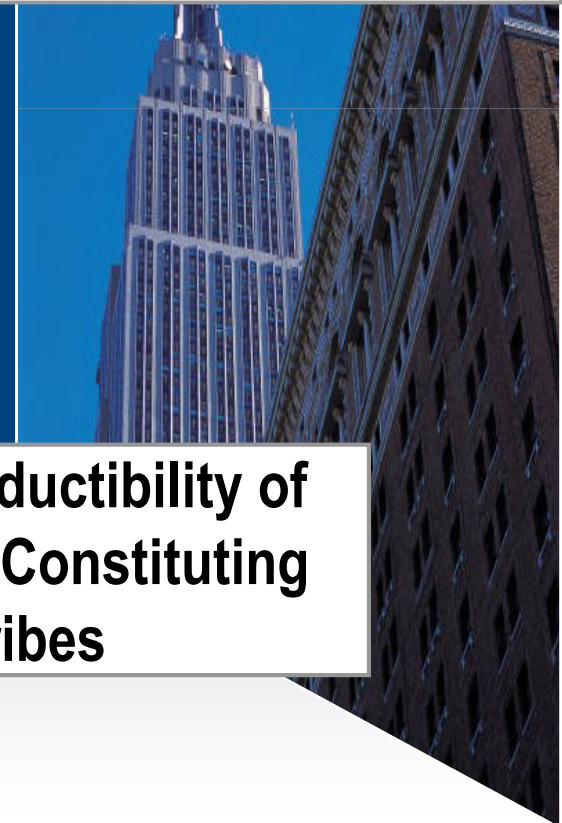
**Enhanced Accounting  
and Auditing Standards**

**Effective, Proportionate and  
Dissuasive Civil, Administrative  
or Criminal Penalties**

**Comprehensive  
Preventive Measures in  
Private Sector**

**Prohibition of Off-the-  
Book Account and other  
Acts**

**No Tax Deductibility of  
Expenses Constituting  
Bribes**



# Other Preventive Measures

## Participation of Society

- Ensure Active Participation of Civil Society (Art.13 (1))
- Provide Public Access to Anti-Corruption Bodies (Art.13 (2))
- Encourage Citizens to Report on Offences (Art.39)



## Prevention of Money-Laundering

- Establish Comprehensive Regulatory and Supervisory Regime
- Ensure Internal and International Cooperation (Art.14)



# UNCAC

**Prevention**

**Criminalization  
Law Enforcement  
(Articles 5-14)**

UNITED NATIONS  
CONVENTION  
AGAINST CORRUPTION



**Asset  
Recovery**

**International  
Cooperation**



# Mandatory and other criminal offences

## 5 Mandatory Offences

- Bribery of National Public Officials (Art.15)**
- Active Bribery of Foreign Public Officials (Art.16)**
- Embezzlement, Misappropriation and Other Diversion of Property (Art.17)**
- Money Laundering (Art.23)**
- Obstruction of Justice (Art.25)**

## 6 Other Criminal Offences

- Passive Bribery of Foreign Public Official (Art.16)**
- Trading in Influence (Art.18)**
- Abuse of Function (Art.19)**
- Illicit Enrichment (Art.20)**
- Bribery in Private Sector (Art.21)**
- Embezzlement in Private Sector (Art.22)**



# Money Laundering (Art.23)

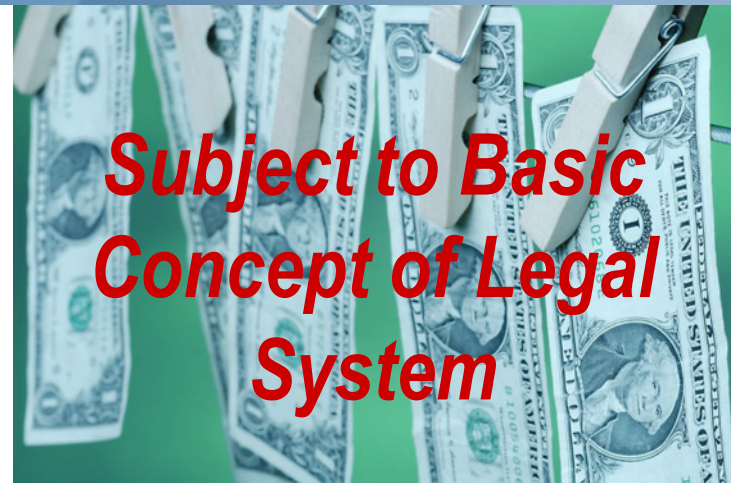


**Conversion or Transfer of Proceeds of Crime**

**Concealment or Disguise of Proceeds of Crime**

**Acquisition, Possession or Use of Proceeds of Crime**

**Participation, Association, Conspiracy, Attempt...**



**Good Practice: Coordinated AML / Corruption Investigations**

# UNCAC

**Prevention**

**Criminalization  
Law Enforcement**

UNITED NATIONS  
CONVENTION  
AGAINST CORRUPTION



**Asset  
Recovery**

**International  
Cooperation  
(Articles 43-50)**



# Introduction

- **UNCAC Requirements**
- **International Good Practices**
- **Regional Good Practices**
- **Open Discussion**

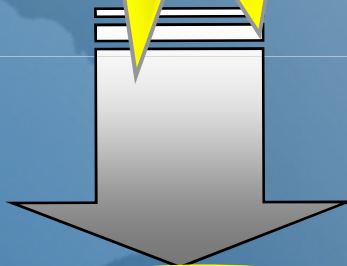


# International Cooperation

*Mandatory  
Offences*

**Question of  
Dual Criminality**

*Optional  
Offences*



**Narrow Dual Criminality  
Requirements  
In MLAs**



# Extradition (Art. 44)

Either  
“Extradite or Prosecute”  
Own Nationals

Conditional Surrender of  
Nationals to be  
Returned to Serve Sentence



*Ensure that All  
Convention Offences are  
Extraditable Offence  
between States Parties*

Grounds of Refusal

Human Rights

No Refusal on Sole  
Fiscal Ground

Consultation before  
Refusal

Harmonization with Existing  
Treaties and Domestic Law

# Mutual Legal Assistance (Art. 46)



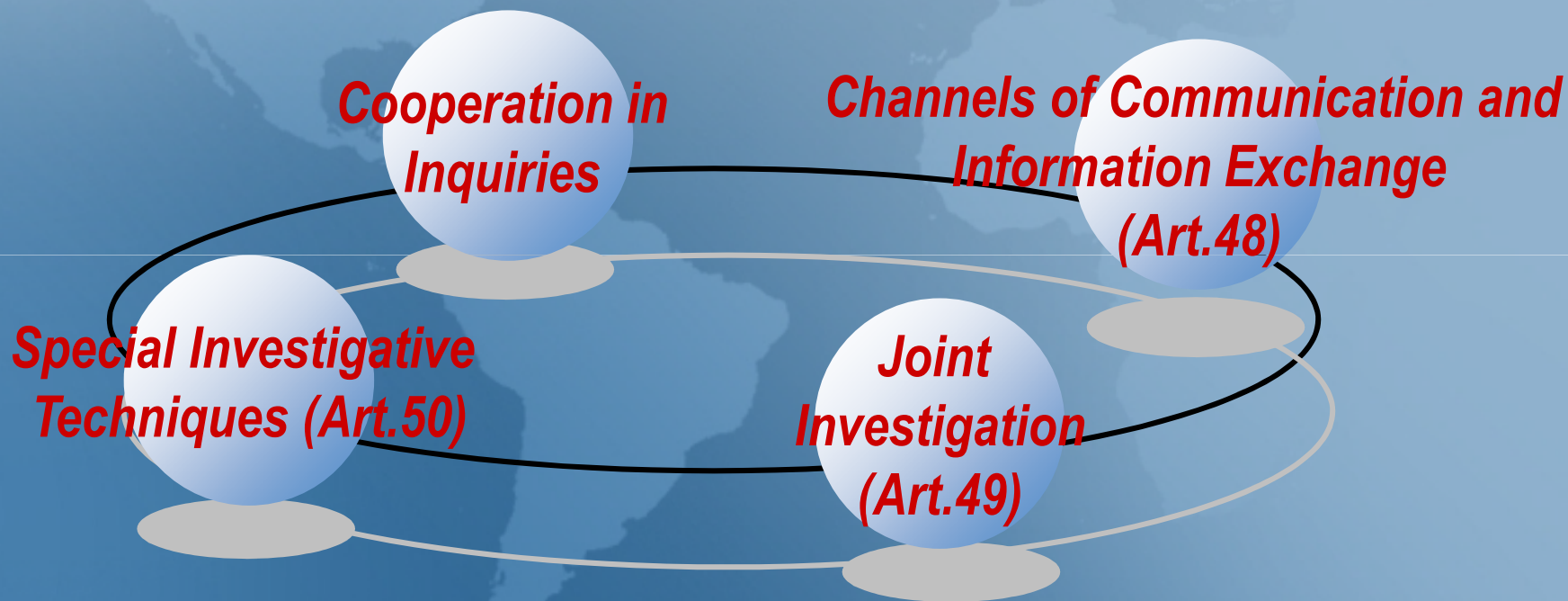
**Widest Measures of Mutual Legal Assistance in Investigations, Prosecution and Legal Proceedings in relation to Convention Offences**

- Designate **Central Authority** to Receive, Execute and Transmit Request
- No Refusal of MLA on the Ground of **Bank Secrecy**
- MLA can be Provided in the **Absence of Dual Criminality for Non-Coercive Measures**





# Other Cooperation Measures



# MLAT Requests

## Discussion

- How many participants have had cases that used MLATs ?



## Establishing international cooperation

- **UNCAC Articles 46 and 55**
- **UNCAC works as a multilateral treaty**



# Establishing international cooperation

- **UNCAC Article 46(15) Requirements**
  - Establish the identity of the authority making the request and the subject matter and nature of the investigation
  - Summarize the relevant facts and describe the assistance sought
  - Mention the identity of the people involved
  - Establish the purpose for the information
  - Sent in a language acceptable to the authorities of the requested party
- The lack of any of these requirements is reason enough to refuse assistance



## International Good Practices

- **Informal Coordination is crucial**
- **Always call a contact in the requested country first, prior to submitting the written MLA request**
- **Must be aware of law in requested country, or informally coordinate with contact in advance**



## Other Relevant International Treaties

- **1959 CoE Convention on MLA**
- **UNTOC**
- **Bilateral Agreements**



## Other Forms of Cooperation

- **Police to Police Cooperation**
  - UNCAC / Regional Agreements
- **Prosecutor to Prosecutor Cooperation**
  - UNCAC / Regional Agreements
  - PROSECO
  - SEEPAG
- **FIU to FIU Cooperation**
  - UNCAC / Regional Agreements
  - Egmont Group
  - AML Procedures



## Cooperation with Intl. Organizations

- ICTY
- EUFOR / KFOR / NATO
- OLAF
- EUROPOL, EUROJUST, and other EU Bodies





## Joint Investigations

- **UNCAC Article 49**
- **Parallel Joint Investigations**
- **Joint Investigations Team**
- **Joint Investigations Body**



## Available Tools

- **UNODC MLA Request Writing Tool**
  - Has been translated into several regional languages



# Will discuss in next presentation

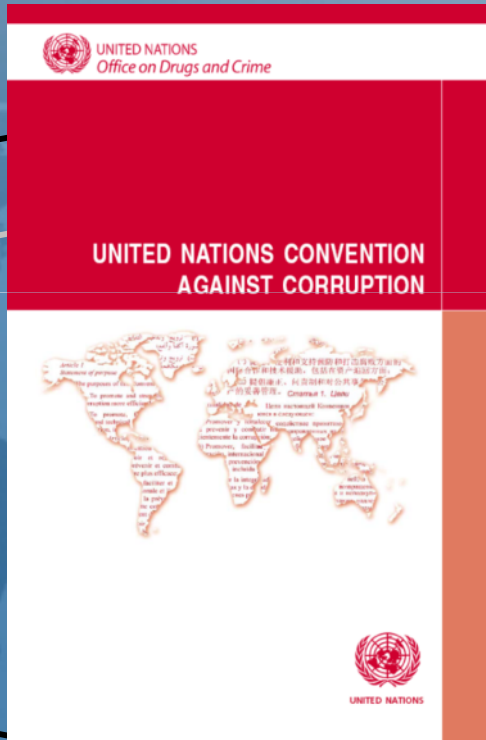
**Prevention**

**Criminalization  
Law Enforcement**

UNITED NATIONS  
OFFICE ON DRUGS AND CRIME  
**UNITED NATIONS CONVENTION  
AGAINST CORRUPTION**

**Asset  
Recovery  
(Art.51-59)**

**International  
Cooperation**



**БЛАГОДАРЯ**

