

**CAYMAN ISLANDS**



# **CRIMINAL JUSTICE (INTERNATIONAL COOPERATION) LAW**

**(2020 Revision)**

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# CRIMINAL JUSTICE (INTERNATIONAL COOPERATION) LAW

(2020 Revision)

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## CAYMAN ISLANDS



# CRIMINAL JUSTICE (INTERNATIONAL COOPERATION) LAW

(2020 Revision)

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## Short title

1. This Law may be cited as the *Criminal Justice (International Cooperation) Law (2020 Revision)*.

## Definitions and interpretation

2. (1) In this Law —

“**Article**” means an article of the Convention;

“**Authority**” means the Central Authority designated under section 4;

“**Convention**” means the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances set out in Schedule 2;

“**court**” means the Grand Court;

“**law corresponding to this Law**” means a law of a requesting Party which provides for legal assistance in criminal matters to foreign states and pursuant to which assistance of the kind sought under this Law could be similarly obtained;

“**Party**” —

- (a) other than in the Convention, means a country or territory specified in Schedule 1; and
- (b) in the Convention, means a party to the Convention;

“**request**” means a request for mutual legal assistance made by one Party to another Party in accordance with section 5; and

“**requesting Party**” means a Party who makes a request to the Authority for assistance under this Law.

- (2) In this Law, references to an offence to which this Law applies are references to —
- (a) any offence under the laws of the Islands; and
  - (b) conduct which would constitute an offence if it had occurred in the Islands.

### **Purposes of mutual legal assistance**

3. Mutual legal assistance in offences to which this Law applies may be requested for any of the following purposes —
- (a) taking evidence or statements from persons;
  - (b) effecting service of judicial documents;
  - (c) executing searches and seizures;
  - (d) examining objects and sites;
  - (e) providing information and items of evidence;
  - (f) providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;
  - (g) identifying or tracing proceeds, property, instruments or such other things for the purposes of evidence;
  - (h) immobilising criminally obtained assets;
  - (i) assisting in proceedings related to forfeiture and restitution; and
  - (j) facilitating the voluntary transfer of witnesses.

### **Central Authority**

4. For the purposes of Article 7(8) and this Law, the Central Authority shall be the Director of Public Prosecutions who shall exercise his functions under the Convention and this Law.

### **Contents of request**

5. (1) The Authority shall make or accept requests in writing.
- (2) A request shall contain —
- (a) the identity of the Party making the request;
  - (b) the subject matter and nature of the investigation, prosecution or proceeding to which the request relates;
  - (c) the name and the functions of the persons conducting such investigation, prosecution or proceeding;



- (d) a summary of all relevant facts respecting the request, except in respect of requests for the purpose of service of judicial documents;
  - (e) a description of the assistance sought and details of any particular procedure the requesting Party requires to be followed;
  - (f) where possible, the identity, location and nationality of any person concerned; and
  - (g) the purpose for which the evidence, information or action is sought.
- (3) To the extent necessary and possible, a request shall also include —
- (a) the identity and location of a person to be served, that person's relationship to the proceedings and the manner in which service is to be made;
  - (b) a precise description of the place or person to be searched and of the articles to be seized;
  - (c) a description of the manner in which any testimony or statement is to be taken and recorded;
  - (d) a list of questions to be posed to a witness;
  - (e) a description of any particular procedure to be followed in executing the request;
  - (f) information as to the allowances and expenses to which a person asked to appear in the territory of a Party will be entitled; and
  - (g) any other information which may be brought to the attention of the Authority to facilitate its execution of the request.
- (4) The Authority may request such additional information from the requesting Party as may be necessary to assist the Authority in complying with the request and in conforming with any law in the Islands.
- (5) The Authority shall only accept requests made in English.

### **Use of requested information by Authority**

6. (1) The requesting Party shall not, without the prior written consent of the Authority, transmit or use information or evidence provided by the Authority for investigations, prosecutions or proceedings other than those stated in the request.
- (2) Before the Authority gives consent under subsection (1), it shall apply to the court which ordered the production of the information or evidence for directions.

### **Confidentiality of Authority**

7. Where a requesting Party requires the Authority to keep confidential the fact and substance of a request made to the Authority and the Authority cannot legally comply with such requirement for confidentiality, it shall so inform the requesting Party.

**Refusal of mutual legal assistance**

- 8.** (1) The Authority may refuse to comply with a request —
- (a) if the request is not made in conformity with section 5;
  - (b) if the request does not establish that there are reasonable grounds for believing —
    - (i) that the criminal offence specified in the request has been committed; and
    - (ii) that the information sought relates to the offence and is located in the Islands;
  - (c) if the Authority is of the opinion that the request is likely to prejudice the security, public order or other essential interests of the Islands;
  - (d) if the authorities in the Islands would be prohibited by any law of the Islands from carrying out the action requested with regard to any similar offence in the Islands;
  - (e) if it is contrary to the laws of the Islands to grant mutual legal assistance in the circumstances to which a request relates; or
  - (f) if the Authority is of the opinion that the requesting Party would not render assistance to the Authority in accordance with the Convention or under a law corresponding to this Law.
- (2) Where the Authority refuses to comply with a request on any of the grounds specified in subsection (1) it shall so inform the requesting Party in writing and state the grounds for the refusal.

**Postponement of assistance**

- 9.** (1) The Authority may postpone giving assistance pursuant to a request where such assistance would interfere in an investigation, prosecution or other proceeding in the Islands.
- (2) Where the Authority postpones assistance in accordance with subsection (1), it shall consult with the requesting Party to determine if the requesting Party will accept assistance subject to such terms and conditions as the Authority deems necessary.

**Powers ancillary to the execution of a request**

- 10.** (1) Subject to sections 8 and 9 —
- (a) upon receipt of a request relating to the Convention, the Authority shall execute the request in accordance with Article 7; and
  - (b) upon receipt of any other request, the Authority may execute the request in accordance with this Law.





- (2) Where the execution of a request would require a person to testify before a court, the Authority shall apply to the court to receive such testimony to which the request relates as appears to the court to be appropriate for the purpose of giving effect to the request.
- (3) A court may, in pursuance of an application made under subsection (2), issue a subpoena and take evidence on oath.
- (4) A person shall not be compelled in any proceedings under this section to give evidence which that person could not be compelled to give in criminal proceedings in the Islands.

### **Production of material relevant to a request**

- 11.** (1) Where, pursuant to a request, the Authority considers it necessary to obtain material from any person it shall direct a constable to apply to the Grand Court for an order to produce such material.
- (2) If, on an application under subsection (1), the court is satisfied that the conditions in subsection (4) are fulfilled, it may make an order that the person who appears to it to be in possession of the material to which the application relates shall —
- (a) produce it to the constable to take away; or
  - (b) give a constable access to it,
- within such period as the order may specify.
- (3) The period to be specified in an order under subsection (2) shall be seven days, unless it appears to the court that a longer or shorter period would be appropriate in the particular circumstances of the application.
- (4) The conditions referred to in subsection (2) are that there are reasonable grounds for —
- (a) suspecting that a specified person has carried on or has benefited from an offence to which this Law applies;
  - (b) suspecting that the material to which the application relates —
    - (i) is likely to be of substantial value (whether by itself or together with other material) to the request for the purpose of which the application is made; and
    - (ii) does not consist of or include items subject to legal privilege; and
  - (c) believing that it is in the public interest, having regard to —
    - (i) the benefit likely to accrue to the request if the material is obtained; and
    - (ii) the circumstances under which the person in possession of the material holds it,
- that the material should be produced or that access to it should be given.

- (5) Where the court makes an order under paragraph (b) of subsection (2) in relation to material on any premises it may, on the application of a constable, order any person who appears to it to be entitled to grant entry to the premises to allow a constable to enter the premises to obtain access to the material.
- (6) The Rules Committee of the court may make rules governing the procedure in relation to —
  - (a) applications for the grant, discharge and variation of orders under this Law; and
  - (b) proceedings relating to such orders.
- (7) Where the material to which an application under this section relates consists of information contained in a computer —
  - (a) an order under paragraph (a) of subsection (2) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
  - (b) an order under paragraph (b) of subsection (2) shall have effect as an order to give access to the material in a form in which it is visible and legible.
- (8) An order under subsection (2) —
  - (a) shall not confer any right to production of, or access to, items subject to legal privilege; and
  - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information whether imposed by the *Confidential Information Disclosure Law, 2016 [Law 23 of 2016]*, any other law or the common law.
- (9) Where, pursuant to a request, an order under subsection (2) has been made or has been applied for, and has not been refused, or a warrant under section 12 has been issued, a person who, knowing or suspecting that a request has been made, or that an investigation into any matter to which a request is made is taking place, makes any disclosure which is likely to prejudice the request or the investigation to which the request may relate, commits an offence and is liable on conviction on indictment to a fine and to imprisonment for five years.
- (10) In proceedings against a person for an offence under this section, it is a defence to prove —
  - (a) that that person did not know or believe that the disclosure was likely to prejudice the investigation; or
  - (b) that that person had lawful authority or reasonable excuse for making the disclosure.
- (11) Any documents or other written information seized under an order by virtue of this section shall be brought immediately to the Authority to be dealt with according to the Law or the Convention.



**Authority for a search pursuant to a request**

- 12.** (1) Where, pursuant to a request, the Authority considers it necessary to enter and search any premises, the Authority shall direct a constable to apply to the Grand Court for a warrant in relation to specified premises.
- (2) On an application made under subsection (1), the court may issue a warrant authorising a constable to enter and search premises if it is satisfied that —
- (a) an order made under section 11(2) in relation to material on the premises has not been complied with;
  - (b) the conditions in subsection (3) are fulfilled; or
  - (c) the conditions in subsection (4) are fulfilled.
- (3) The conditions referred to in paragraph (b) of subsection (2) are that —
- (a) there are reasonable grounds for suspecting that a specified person has carried on or has benefited from an offence to which this Law applies;
  - (b) the conditions in paragraphs (a) and (b) of section 11(4) are fulfilled in relation to any material on the premises; and
  - (c) it would not be appropriate to make an order under section 11 in relation to the material because —
    - (i) it is not practicable to communicate with any person entitled to produce the material;
    - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
    - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a constable could secure immediate access to the material.
- (4) The conditions referred to in paragraph (c) of subsection (2) are that there are reasonable grounds for suspecting that —
- (a) a specific person has carried on or has benefited from an offence to which this Law applies;
  - (b) there is on the premises material relating to the specified person or to an offence to which this Law applies which is likely to be of substantial value (whether by itself or together with other material) to the request for the purpose of which the application is made, but that the material cannot at the time be particularised; and
    - (i) it is not practicable to communicate with any person entitled to grant entry to the premises;
    - (ii) entry to the premises will not be granted unless a warrant is produced; or

- (iii) the request for the purpose of which the application is made might be seriously prejudiced unless a constable arriving at the premises could secure immediate entry to them.
- (5) Where a constable has entered premises in the execution of a warrant under this section, that constable may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the warrant was issued.
- (6) Any documents or other written information seized under an order by virtue of this section shall be brought immediately to the Authority to be dealt with according to the Law or the Convention.

### **Authentication of official documents**

13. The Authority or any person designated by the Authority in writing may authenticate any official documents or records of the Islands which are required in accordance with this Law.

### **Protection of persons appearing in response to a request**

14. (1) Any person who enters the Islands in response to a request made by the Authority for the appearance of that person in accordance with Article 7(18) or under a law corresponding to this Law shall not be subject, while in the Islands, to service of any process or subjected to any restriction of his personal liberty by reason of any act or conviction in the Islands prior to his departure from the territory of the requested Party.
- (2) Subsection (1) shall cease to apply ten days after that person has been notified in writing by the Authority that his presence is no longer required in the Islands or, if that person has earlier left the Islands, that that person is not required by the Authority to return for the purposes of a request.
- (3) For the purposes of subsection (2), notification in writing shall be deemed to have been given to a person three days after the dispatch by post to that person of such notification to his last known address.

### **Protection of persons disclosing confidential information**

15. (1) A person who divulges any confidential information or gives any testimony in conformity with a request shall not be considered to commit an offence under the *Confidential Information Disclosure Law, 2016 [Law 23 of 2016]* by reason only of such disclosure or the giving of such testimony.
- (2) Any disclosure or testimony to which subsection (1) refers shall be deemed not to be a breach of any confidential relationship between that person and any other person, and no civil claim or action shall lie against the person making such



disclosure or giving such testimony or against such person's principal or employer by reason of such disclosure or testimony.

### **Restriction of application of laws**

- 16.** Section 4 of the *Confidential Information Disclosure Law, 2016 [Law 23 of 2016]* shall not apply to confidential information given by any person on the directions of the court given in pursuance of a request.

### **Transfer of persons in custody to or from the territory of the other Party**

- 17.** (1) A person who is in lawful custody in the Islands may be transferred to the territory of any Party in response to a request by that Party for his presence as a witness if that person and the Authority consent to such a transfer.
- (2) A person transferred under subsection (1) shall be considered to be in lawful custody during such transfer and during the period in which that person is in the territory of the requesting Party and such time shall count as if that person had been in custody in the Islands.
- (3) A person who is in lawful custody in a territory of any Party and who is transferred to the Islands upon a request by the Authority shall be considered to be in lawful custody during such transfer and during the period in which that person is in the Islands.
- (4) Any person who is transferred under this section may be released from custody upon such conditions as to bail or otherwise as may be agreed in writing between the Parties and may be released no later than the date on which that person would have been released if that person had not been so transferred.

### **Confidentiality with regard to a request**

- 18.** (1) Where a request and a court order issued pursuant to that request specify that the request be kept confidential, no person who is —
- (a) notified of a request; or
- (b) required to take any action, produce any documents or supply any information in response to or in relation to any matters to which a request relates,
- shall disclose the fact of the receipt of such a request or any particulars required or documents produced pursuant to the request except to that person's attorney-at-law and such other persons as the Authority may authorise, for a period of ninety days from the date of the receipt of the request or such further period determined by the Authority.
- (2) This section shall be binding on the attorney-at-law of any person to whom subsection (1) applies.

### **Forfeiture or confiscation of criminally acquired assets**

19. The Authority may, where it has assisted a requesting Party, enter into an arrangement with the requesting Party respecting the sharing of confiscated or forfeited assets between the Government of the Islands and the requesting Party.

### **Service of notices and documents**

20. For the purposes of this Law and subject to section 14(3), the service of any document shall be sufficient if delivered by hand or posted by registered post to the registered or other office of the addressee and an affidavit testimony of delivery of the notice or document by hand or supporting the registration certificate shall be deemed sufficient proof of such service.

### **Enforcement**

21. A person who, contrary to section 18, informs any person other than his attorney-at-law, of the fact of the issue of a request or of any communication relevant to the matter to which the request relates, commits an offence and is liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

### **Return of documents and articles**

22. The requesting Party shall return any documents or articles furnished to it in the execution of a request under this Law as soon as reasonably practicable unless the Authority waives the return of the documents and articles.

### **Conflict of laws**

23. (1) This Law does not derogate from the provisions of —
- (a) the *Confidential Information Disclosure Law, 2016 [Law 23 of 2016]*;
  - (b) the *Mutual Legal Assistance (United States of America) Law (2015 Revision)*;
  - (c) the *Proceeds of Crime Law (2020 Revision)*;
  - (d) the *Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978*; or
  - (e) any other law enabling international cooperation in criminal matters.
- (2) This Law does not apply to a request for the exchange of information made pursuant to a law or an agreement which has legal effect in the Islands and which enables international cooperation in taxation matters.
- (3) Where there is any inconsistency between this Law and the Convention, this Law shall prevail to the extent of the inconsistency.
- (4) In subsection (2) —
- “**taxation matters**” means matters relating to the collection, calculation or assessment of a tax or matters incidental thereto.



**Application of certain provisions of the Proceeds of Crime Law**

- 24.** (1) Where a request has been made for the purpose of —
- (a) identifying or tracing proceeds, property, instruments or such other things for the purposes of evidence;
  - (b) immobilising criminally obtained assets; or
  - (c) assisting in proceedings related to forfeiture and restitution,
- the provisions of sections 32 to 38, and Schedule 5 to the *Proceeds of Crime Law (2020 Revision)* shall *mutatis mutandis* apply, except that —
- (i) any reference in those provisions to a designated country shall be construed as a reference to a country or territory specified in Schedule 1 of this Law; and
  - (ii) any reference in those provisions to the institution of proceedings shall be disregarded.
- (2) For the purposes of this Law, the powers of the Grand Court under paragraphs 6(1) and 7(a) of Schedule 5 to the *Proceeds of Crime Law (2020 Revision)* are exercisable where either an external confiscation order has been made or it appears to the Grand Court that there are reasonable grounds for thinking that such an order may be made.

**Amendment of Schedule 1**

- 25.** The Cabinet may, by order, amend Schedule 1.





**SCHEDULE 1***(section 2)***COUNTRIES OR TERRITORIES TO WHICH MUTUAL LEGAL ASSISTANCE MAY BE GIVEN BY THE AUTHORITY**


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Afghanistan	Algeria
Antigua and Barbuda	Argentina
Armenia	Australia
Austria	Azerbaijan
Bahamas	Bahrain
Bangladesh	Barbados
Belarus	Belgium
Belize	Bhutan
Bolivia	Bosnia and Herzegovina
Brazil	Brunei Darussalam
Bulgaria	Burkina Faso
Burundi	
Cameroon	Canada
Cape Verde	Chad
Chile	China
Colombia	Costa Rica
Côte d'Ivoire	Croatia
Cuba	Cyprus
Czech Republic	
Denmark	Dominica
Dominican Republic	
Ecuador	Egypt
El Salvador	Ethiopia
European Community	
Fiji	Finland
France	
Gabon	Gambia
Germany	Ghana
Greece	Grenada

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Guatemala	Guernsey
Guinea	Guinea-Bissau
Guyana	
Haiti	Holy See
Honduras	Hungary
India	Indonesia
Iran (Islamic Republic)	Ireland
Israel	Italy
Jamaica	Japan
Jersey	Jordan
Kenya	Kuwait
Kyrgyzstan	
Latvia	Lebanon
Lesotho	Liechtenstein
Luxembourg	
Macedonia	Madagascar
Malawi	Malaysia
Maldives	Mali
Malta	Mauritania
Mauritius	Mexico
Moldova	Monaco
Morocco	
Nepal	Netherlands
New Zealand	Nicaragua
Niger	Nigeria
Norway	
Oman	
Pakistan	Panama
Paraguay	Peru
Poland	Portugal
Qatar	
Romania	Russian Federation
St. Kitts and Nevis	St. Lucia
St. Vincent and the Grenadines	São Tomé and Príncipe
Saudi Arabia	Senegal
Seychelles	Sierra Leone



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Slovakia	Slovenia
Spain	Sri Lanka
Sudan	Suriname
Swaziland	Sweden
Switzerland	Syrian Arab Republic
Tajikistan	Togo
Trinidad and Tobago	Tunisia
Turkey	Turkmenistan
Uganda	Ukraine
United Arab Emirates	United Kingdom (and the overseas territories of Anguilla, Bermuda, British Virgin Islands, Isle of Man, Montserrat and the Turks and Caicos Islands)
United Republic of Tanzania	United States of America
Uruguay	Uzbekistan
Venezuela	Yemen
Zaire	Zambia
Zimbabwe	

## SCHEDULE 2

### UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Adopted in Vienna, on 19 December 1988

**The Parties to the Convention,**

**Deeply concerned** by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society,

**Deeply concerned also** by the steadily increasing inroads into various social groups made by illicit traffic in narcotic drugs and psychotropic substances, and particularly by the fact that children are used in many parts of the world as an illicit drug consumers market and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity,

**Recognising** the links between illicit traffic and other related organised criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of the States,

**Recognising also** that illicit traffic is an international criminal activity, the suppression of which demands urgent attention and the highest priority,

**Aware** that illicit traffic generates large financial profits and wealth enabling transnational criminal organisations to penetrate, contaminate and corrupt the structures of government, legitimate, commercial and financial business, and society at all its levels,

**Determined** to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,

**Desiring** to eliminate the root causes of the problem of abuse of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic,

**Considering** that measures are necessary to monitor certain substances, including precursors, chemicals and solvents, which are used in the manufacture of narcotic drugs and psychotropic substances, the ready availability of which has led to an increase in the clandestine manufacture of such drugs and substances,

**Determined** to improve international co-operation in the suppression of illicit traffic by sea,

**Recognising** that eradication of illicit traffic is a collective responsibility of all States and that, to that end, co-ordinated action within the framework of international co-operation is necessary,



**Acknowledging** the competence of the United Nations in the field of control of narcotic drugs and psychotropic substances and desirous that the international organs concerned with such control should be within the framework of that Organisation,

**Reaffirming** the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody,

**Recognising** the need to reinforce and supplement the measures provided in the Single Convention on Narcotic Drugs, 1961, that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961, and the 1971 Convention on Psychotropic Substances, in order to counter the magnitude and extent of illicit traffic and its grave consequences,

**Recognising** also the importance of strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international criminal activities of illicit traffic,

**Desiring** to conclude a comprehensive, effective and operative international convention that is directed specifically against illicit traffic and that considers the various aspects of the problem as a whole, in particular those aspects not envisaged in the existing treaties in the field of narcotic drugs and psychotropic substances,

**Hereby agree** as follows:

## Article 1

### DEFINITIONS

Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout this Convention:

- (a) “**Board**” means the International Narcotics Control Board established by the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;
- (b) “**Cannabis plant**” means any plant of the genus Cannabis;
- (c) “**Coca bush**” means the plant of any species of the genus Erythroxylon;
- (d) “**Commercial carrier**” means any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire, or any other benefit;
- (e) “**Commission**” means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations;
- (f) “**Confiscation**”, which includes forfeiture where applicable, means the permanent deprivation of property by order of a court or other competent authority;
- (g) “**Controlled delivery**” means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, substances in Table I and Table

II annexed to this Convention, or substances substituted for them, to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of offences established in accordance with article 3, paragraph 1 of the Convention;

- (h) “**1961 Convention**” means the Single Convention on Narcotic Drugs, 1961;
- (i) “**1961 Convention as amended**” means the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;
- (j) “**1971 Convention**” means the Convention on Psychotropic Substances, 1971;
- (k) “**Council**” means the Economic and Social Council of the United Nations;
- (l) “**Freezing**” or “**seizure**” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or a competent authority;
- (m) “**Illicit traffic**” means the offences set forth in article 3, paragraphs 1 and 2 of this Convention;
- (n) “**Narcotic drug**” means any of the substances, natural or synthetic, in Schedules I and II of the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;
- (o) “**Opium poppy**” means the plant of the species *Papaver somniferum* L;
- (p) “**Proceeds**” means any property derived or obtained from, directly or indirectly, through the commission of an offence established in accordance with article 3, paragraph 1;
- (q) “**Property**” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interests in, such assets;
- (r) “**Psychotropic substance**” means any substance, natural or synthetic, or any natural material in Schedules I, II, III, or IV of the Convention on Psychotropic substances, 1971;
- (s) “**Secretary-General**” means the Secretary General of the United Nations;
- (t) “**Table I**” and “**Table II**” mean the correspondingly numbered lists of substances annexed to this Convention, as amended from time to time in accordance with article 12;
- (u) “**Transit State**” means a State through the territory in which illicit narcotic drugs, psychotropic substances and substances in Table I and Table II are being moved, which is neither the place of origin nor the place of ultimate destination thereof.



## Article 2

### SCOPE OF THE CONVENTION

1. The purpose of this Convention is to promote co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension. In carrying out their obligations under the Convention, the Parties shall take necessary measures, including legislative and administrative measures, in conformity with the fundamental provisions of their respective domestic legislative systems.
2. The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
3. A Party shall not undertake in the territory of another the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Party by its domestic law.

## Article 3

### OFFENCES AND SANCTIONS

1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:
  - (a)
    - (i) The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;
    - (ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;
    - (iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;
    - (iv) The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
    - (v) The organisation, management or financing of any of the offences enumerated in (i), (ii), (iii) or (iv) above;
  - (b)
    - (i) The conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with subparagraph (a) of this paragraph, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit



origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;

- (ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences;
- (c) Subject to its constitutional principles and the basic concepts of its legal system:
  - (i) The acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences;
  - (ii) The possession of equipment or materials or substances listed in Table I and Table II, knowing that they are being or are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
  - (iii) Publicly inciting or inducing others, by any means, to commit any of the offences established in accordance with this article or to use narcotic drugs or psychotropic substances illicitly;
  - (iv) Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting facilitating and counselling the commission of any of the offences established in accordance with this article.

2. Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention.

3. Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

4. (a) Each Party shall make the commission of the offences established in accordance with paragraph 1 of this article liable to sanctions which take into account the grave nature of these offences, such as imprisonment or other forms of deprivation of liberty, pecuniary sanctions and confiscation.

(b) The Parties may provide, in addition to conviction or punishment, for an offence established in accordance with paragraph 1 of this article, that the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.

(c) Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such





as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare.

(d) The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.

5. The Parties shall ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences established in accordance with paragraph 1 of this article particularly serious, such as:

(a) The involvement in the offence of an organised criminal group to which the offender belongs;

(b) The involvement of the offender in other international organised criminal activities;

(c) The involvement of the offender in other illegal activities facilitated by the commission of the offence;

(d) The use of violence or arms by the offender;

(e) The fact that the offender holds a public office and that the offence is connected with the office in question;

(f) The victimisation or use of minors;

(g) The fact that the offence is committed in a penal institution or in an educational institution or social service facility or in their immediate vicinity or in other places to which school children and students resort for educational, sports and social activities;

(h) Prior conviction, particularly for similar offences, whether foreign or domestic, to the extent permitted under the domestic law of a Party.

6. The Parties shall endeavour to ensure that any discretionary legal powers under their domestic law relating to the prosecution of persons for offences established in accordance with this article are exercised to maximise the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences;

7. The Parties shall ensure that their courts or other competent authorities bear in mind the serious nature of the offences enumerated in paragraph 1 of this article and the circumstances enumerated in paragraph 5 of this article when considering the eventuality of early release or parole of persons convicted of such offences.

8. Each Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in

accordance with paragraph (1) of this article, and a longer period where the alleged offender has evaded the administration of justice.

9. Each Party shall take appropriate measures, consistent with its legal system, to ensure that a person charged with or convicted of an offence established in accordance with paragraph 1 of this article, who is found within its territory, is present at the necessary criminal proceedings.

10. For the purpose of co-operation among the Parties under this Convention, including in particular, co-operation under articles 5, 6, 7 and 9, offences established in accordance with this article shall not be considered as fiscal offences or as political offences or regarded as politically motivated, without prejudice to the constitutional limitations and the fundamental domestic law of the Parties.

11. Nothing contained in this article shall affect the principle that the description of the offences to which it refers and of legal defences thereto is reserved to the domestic law of a Party and that such offences shall be prosecuted and punished in conformity with that law.

#### **Article 4**

### **JURISDICTION**

1. Each Party:

(a) Shall take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

- (i) The offence is committed in its territory;
- (ii) The offence is committed on board a vessel flying its flag or an aircraft which is registered under its law at the time the offence is committed;

(b) May take measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

- (i) The offence is committed by one of its nationals or by a person who has his habitual residence in its territory;
- (ii) The offence is committed on board a vessel concerning which that Party has been authorised to take appropriate action pursuant to article 17, provided that such jurisdiction shall be exercised only on the basis of agreements or arrangements referred to in paragraphs 4 and 9 of that article;
- (iii) The offence is one of those established in accordance with article 3, paragraph 1, subparagraph (c) (iv), and is committed outside its territory, of an offence established in accordance with article 3, paragraph 1.

2. Each Party:



(a) Shall also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party on the ground:

- (i) That the offence has been committed in its territory or on board a vessel flying its flag or an aircraft which has registered under its law at the time the offence was committed; or
- (ii) that the offence has been committed by one of its nationals;

(b) May also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party.

3. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic law.

## **Article 5**

### **CONFISCATION**

1. Each Party shall adopt such measures as may be necessary to enable confiscation of:

(a) Proceeds derived from offences established in accordance with article 3, paragraph 1, or property the value of which corresponds to that of such proceeds;

(b) Narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in a manner in offences established in accordance with article 3, paragraph 1.

2. Each Party shall also adopt such measures as may be necessary to enable its competent authorities to identify, trace and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article, for the purpose of eventual confiscation.

3. In order to carry out the measures referred to in this article, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

4. (a) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the Party in whose territory proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article are situated shall:

- (i) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it; or
- (ii) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by the requesting Party in



accordance with paragraph 1 of this article, in so far as it relates to proceeds, property, instrumentalities or any other things referred to in paragraph 1 situated in the territory of the requested Party.

(b) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the requested Party shall take such measures to identify, trace and seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a request under subparagraph (a) of this paragraph, by the requested Party.

(c) The decisions or actions provided for in subparagraphs (a) and (b) of this paragraph shall be taken by the requested Party, in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting Party.

(d) The provisions of article 7, paragraphs 6 to 19 are applicable *mutatis mutandis*. In addition to the information specified in article 7, paragraph 10, requests made pursuant to this article shall contain the following:

- (i) In the case of a request pertaining to subparagraph (a)(i) of this paragraph, a description of the property to be confiscated and a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;
- (ii) In the case of a request pertaining to subparagraph (a)(ii), a legally admissible copy of an order of confiscation issued by the requesting Party upon which the request is based, a statement of the facts and information as to the extent to which the execution of the order is requested;
- (iii) In the case of a request pertaining to subparagraph (b), a statement of the facts relied upon by the requesting Party and a description of the actions requested.

(e) Each Party shall furnish to the Secretary-General the text of any of its laws and regulations which give effect to this paragraph and the text of any subsequent changes to such laws and regulations.

(f) If a Party elects to make the taking of the measures referred to in subparagraphs (a) and (b) of this paragraph conditional on the existence of a relevant treaty, that Party shall consider this Convention as the necessary and sufficient treaty basis.

(g) The Parties shall seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article.

5. (a) Proceeds or property confiscated by a Party pursuant to paragraph 1 or paragraph 4 of this article shall be disposed of by that Party according to its domestic law and administrative procedures.



(b) When acting on the request of another Party in accordance with this article, a Party may give special consideration to concluding agreements on:

- (i) Contributing the value of such proceeds and property, or funds derived from the sale of such proceeds or property, or a substantial part thereof, to intergovernmental bodies specialising in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances;
- (ii) Sharing with other Parties, on a regular or case-by-case basis, such proceeds or property, or funds derived from the sale of such proceeds or property, in accordance with its domestic law, administrative procedures or bilateral or multilateral agreements entered into for this purpose.

6. (a) If proceeds have been transformed or converted into, other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(b) If proceeds have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to seizure or freezing, be liable to confiscation up to the assessed value of the intermingled proceeds.

(c) Income or other benefits derived from:

- (i) Proceeds;
- (ii) Property into which proceeds have been transformed or converted; or
- (iii) Property with which proceeds have been intermingled,

shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds.

7. Each Party may consider ensuring that the onus of proof be reversed regarding the lawful origin of alleged proceeds or other property liable to confiscation, to the extent that such action is consistent with principles of its domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed as prejudicing the rights of *bona fide* third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party.

## Article 6

### EXTRADITION

1. This article shall apply to the offences established by the Parties in accordance with article 3, paragraph 1.

2. Each of the offences to which this article applies shall be deemed to be included as an extractable offence in any extradition treaty existing between the Parties. The Parties



undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

3. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies. The Parties which require detailed legislation in order to use this Convention as a legal basis for extradition shall consider enacting such legislation as may be necessary.

4. The Parties which do not make extradition conditional on the existence of a treaty shall recognise offences to which this article applies as extraditable offences between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds upon which the requested Party may refuse extradition.

6. In considering requests received pursuant to this article, the requested State may refuse to comply with such requests where there are substantial grounds leading its judicial or other competent authorities to believe that compliance would facilitate the prosecution or punishment of any person on account of his race, religion, nationality or political opinions, or would cause prejudice for any of those reasons to any person affected by the request.

7. The Parties shall endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

8. Subject to the provisions of its domestic law and its extradition treaties, the requested Party may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting 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 presence at extradition proceedings.

9. Without prejudice to the exercise of any criminal jurisdiction established in accordance with its domestic law, a Party in whose territory an alleged offender is found shall:

(a) If it does not extradite him in respect of an offence established in accordance with article 3, paragraph 1, on the grounds set forth in article 4, paragraph 2, subparagraph (a), submit the case to its competent authorities for the purpose of prosecution, unless otherwise agreed with the requesting Party;

(b) If it does not extradite him in respect of such an offence and has established its jurisdiction in relation to that offence with article 4, paragraph 2, subparagraph (b), submit the case to its competent authorities for the purpose of prosecution, unless otherwise requested by the requesting Party for the purposes of preserving its legitimate jurisdiction.



10. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested Party, the requested Party shall, if its law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence which has been imposed under the law of the requesting Party, or the remainder thereof.
11. The Parties shall seek to conclude bilateral and multilateral agreements to carry out or to enhance the effectiveness of extradition.
12. The Parties may consider entering into bilateral or multilateral agreements, whether *ad hoc* or general, on the transfer to their country of persons sentenced to imprisonment and other forms of deprivation of liberty to which this article applies, in order that they may complete their sentence there.

## Article 7

### MUTUAL LEGAL ASSISTANCE

1. The Parties shall afford one another, pursuant to this article, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3, paragraph 1.
2. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
  - (a) Taking evidence or statements from persons;
  - (b) Effecting service of judicial documents;
  - (c) Executing searches and seizures;
  - (d) Examining objects and sites;
  - (e) Providing information and evidentiary items;
  - (f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;
  - (g) Identifying or tracing proceeds, property, instrumentalities or other thing for evidentiary purpose.
3. The Parties may afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested Party.
4. Upon request, the Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings.
5. A Party shall not decline to render mutual legal assistance under this article on the ground of bank secrecy.
6. The provisions of this article shall not affect the obligations under any treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. Paragraphs 8 to 19 of this article shall apply to requests made pursuant to this article if the Parties in question are not bound by a treaty of mutual legal assistance. If these Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the Parties agree to apply paragraphs 8 to 19 of this article in lieu thereof.

8. Parties shall designate an authority, or when necessary, authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the authorities designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that such requests and communications be addressed to or through the diplomatic channel and, in urgent circumstances, where the Parties agree, through channels of the International Criminal Police Organisation, if possible.

9. Requests shall be made in writing in a language acceptable to the requested Party. The language or languages acceptable to each Party shall be notified to the Secretary-General. In urgent circumstances, and where agreed by the Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

- (a) the identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or proceeding to which the request relates, and the name and functions of the authority conducting such investigation, prosecution or proceeding;
- (c) A summary of the relevant facts, except that in respect of requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure the requesting Party wishes to be followed;
- (e) Where possible, the identity, location and nationality of any person concerned;
- (f) The purpose for which the evidence, information or action is sought.

11. The requested 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.

12. A request shall be executed in accordance with the domestic law of the requested Party and, to the extent not contrary to the domestic law of the requested Party and, where possible, in accordance with the procedures specified in the request.

13. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

14. The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the





requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

15. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;
- (b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, public order or other essential interest;
- (c) If the authorities of the requested 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, prosecution or proceedings under their own jurisdiction;
- (d) If it would be contrary to the legal system of the requested Party relating to mutual legal assistance for the request to be granted.

16. Reasons shall be given for any refusal of mutual legal assistance.

17. Mutual legal assistance may be postponed by the requested Party on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested Party shall consult with the requesting Party to determine if the assistance can still be given subject to such terms and conditions as the requested Party deems necessary.

18. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of his personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested Party. 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 Parties, from the date on which that witness has been officially informed that his presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory or, having left it, has returned of his own free will.

19. The ordinary costs of executing a request shall be borne by the requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the 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.

20. The 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.

**Article 8****TRANSFER OF PROCEEDINGS**

The Parties shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interests of a proper administration of justice.

**Article 9****OTHER FORMS OF CO-OPERATION AND TRAINING**

1. The Parties shall co-operate closely with one another, consistent with their respective domestic legal and administrative systems, with a view to enhancing the effectiveness of law enforcement action to suppress the commission of offences established in accordance with article 3, paragraph 1. They shall, in particular, on the basis of bilateral or multilateral agreements or arrangements:

(a) Establish and maintain channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences established in accordance with article 3, paragraph 1, including, if the Parties concerned deem it appropriate, links with other criminal activities;

(b) Co-operate with one another in conducting enquiries, with respect to offences established in accordance with article 3, paragraph 1, having an international character, concerning:

- (i) The identity, whereabouts and activities of persons suspected of being involved in offences established in accordance with article 3, paragraph 1;
- (ii) The movement of proceeds or property derived from the commission of such offences;
- (iii) The movement of narcotic drugs, psychotropic substances, substances in Table I and Table II of this Convention and instrumentalities used or intended for use in the commission of such offences;

(c) In appropriate cases and if not contrary to domestic law, establish joint teams, taking into account the need to protect the security of persons and of operations, to carry out the provisions of this paragraph. Officials of any Party taking part in such teams shall act as authorised by the appropriate authorities of the Party in whose territory the operation is to take place; in all such cases, the Parties involved shall ensure that the sovereignty of the Party on whose territory the operation is to take place is fully respected;

(d) Provide, when appropriate, necessary quantities of substances for analytical or investigative purposes;



(e) Facilitate effective co-ordination between their competent agencies and services and promote the exchange of personnel and other experts, including the posting of liaison officers.

2. Each Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement and other personnel, including customs, charged with the suppression of offences established in accordance with article 3, paragraph 1. Such programmes shall deal, in particular, with the following:

(a) Methods used in the detection and suppression of offences established in accordance with article 3, paragraph 1;

(b) Routes and techniques used by persons suspected of being involved in offences established in accordance with article 3, paragraph 1, particularly in transit States, and appropriate countermeasures;

(c) Monitoring of the import and export of narcotic drugs, psychotropic substances and substances in Table I and Table II;

(d) Detection and monitoring of the movement of proceeds and property derived from, and narcotic drugs, psychotropic substances and substances in Table I and Table II, and instrumentalities used or intended for use in, the commission of offences established in accordance with article 3, paragraph 1;

(e) Methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;

(f) Collection of evidence;

(g) Control techniques in free trade zones and free ports;

(h) Modern law enforcement techniques.

3. The Parties shall assist one another to plan and implement research and training programmes designed to share expertise in the areas referred to in paragraph 2 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote co-operation and stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

## Article 10

### INTERNATIONAL CO-OPERATION AND ASSISTANCE FOR TRANSIT STATES

1. The Parties shall co-operate, directly or through competent international or regional organisation, to assist and support transit States and, in particular, developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operation on interdiction and other related activities.

2. The Parties may undertake, directly or through competent international or regional organisations, to provide financial assistance to such transit States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.
3. The Parties may conclude bilateral or multilateral agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article and may take into consideration financial arrangements in this regard.

### **Article 11**

#### **CONTROLLED DELIVERY**

1. If permitted by the basic principles of their respective domestic legal systems, the Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in offences established in accordance with article 3, paragraph 1, and to take legal action against them.
2. Decisions to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understanding with respect to the exercise of jurisdiction by the Parties concerned.
3. Illicit consignments whose controlled delivery is agreed to may, with the consent of the Parties concerned, be intercepted and allowed to continue with the narcotic drugs or psychotropic substances intact or removed or replaced in whole or in part.

### **Article 12**

#### **SUBSTANCES FREQUENTLY USED IN THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES**

1. The Parties shall take the measures they deem appropriate to prevent diversion of substances in Table I and Table II used for the purpose of illicit manufacture of narcotic drugs or psychotropic substances, and shall co-operate with one another to this end.
2. If a Party or the Board has information which in its opinion may require the inclusion of a substance in Table I or Table II, it shall notify the Secretary-General and furnish him with the information in support of that notification. The procedure described in paragraphs 2 to 7 of this article shall also apply when a Party or the Board has information justifying the deletion of a substance from Table I or Table II, or the transfer of a substance from one Table to the other.
3. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, where notification is made by a Party, to the Board. The Parties shall communicate their comments concerning the notification to the Secretary-General, together with all supplementary information which



may assist the Board in establishing an assessment and the Commission in reaching a decision.

4. If the Board, taking into account the extent, importance and diversity of the licit use of the substance, and the possibility and ease of using alternate substances both for licit purposes and for the illicit manufacture of narcotic drugs or psychotropic substances, finds:

(a) That the substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance;

(b) That the volume and extent of the illicit manufacture of a narcotic drug or psychotropic substance creates serious public health or social problems, so as to warrant international action,

it shall communicate to the Commission an assessment of the substance, including the likely effect of adding the substance to either Table I or Table II on both licit use and illicit manufacture, together with recommendations of monitoring measures, if any, that would be appropriate in the light of its assessment.

5. The Commission, taking into account the comments submitted by the Parties and the comments and recommendations of the Board, whose assessment shall be determinative as to scientific matters and also taking into due consideration any other relevant factors, may decide by a two-thirds majority of its members to place a substance in Table I or Table II.

6. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States and other entities which are, or which are entitled to become, Parties to this Convention, and to the Board. Such decision shall become fully effective with respect to each Party one hundred and eighty days after the date of such communication.

7. (a) The decision of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within one hundred and eighty days after the date of notification of the decision. The request for review shall be sent to the Secretary-General, together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the Board and to all the Parties, inviting them to submit their comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States and other entities which are, or which are entitled to become, Parties to this Convention, to the Commission and to the Board.

8. (a) Without prejudice to the generality of the provisions contained in paragraph 1 of this article and the provisions of the 1961 Convention, the 1961 Convention as amended

and the 1971 Convention, the Parties shall take the measures they deem appropriate to monitor the manufacture and distribution of substances in Table I and Table II which are carried out within their territory.

- (b) To this end, the Parties may:
  - (i) Control all persons and enterprises engaged in the manufacture and distribution of such substances;
  - (ii) Control under licence the establishment and premises in which such manufacture or distribution may take place;
  - (iii) Require that licensees obtain a permit for conducting the aforesaid operations;
  - (iv) Prevent the accumulation of such substances in the possession of manufacturers and distributors, in excess of the quantities required for the normal conduct of business and the prevailing market conditions.

9. Each Party shall, with respect to substances in Table I and Table II, take the following measures:

(a) Establish and maintain a system to monitor international trade in substances in Table I and Table II in order to facilitate the identification of suspicious transactions. Such monitoring systems shall be applied in close co-operation with manufacturers, importers, exporters, wholesalers and retailers, who shall inform the competent authorities of suspicious orders and transactions.

(b) Provide for the seizure of any substance in Table I or Table II if there is sufficient evidence that it is for use in the illicit manufacture of a narcotic drug or psychotropic substance.

(c) Notify, as soon as possible, the competent authorities and services of the Parties concerned if there is reason to believe that the import or transit of a substance in Table I or Table II is destined for the illicit manufacture of narcotic drugs or psychotropic substances, including in particular information about the means of payment and any other essential elements which led to that belief.

(d) Require that imports and exports be properly labelled and documented. Commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names, as stated in Table I or Table II, of the substances being imported or exported, the quantity being imported or exported, and the name and address of the exporter, the importer and, when available, the consignee.

(e) Ensure that documents referred to in subparagraph (d) of this paragraph are maintained for a period of not less than two years and may be made available for inspection by the competent authorities.

10. (a) In addition to the provisions of paragraph 9, and upon request to the Secretary-General by the interested Party, each Party from whose territory a substance in Table I is



to be exported shall ensure that, prior to such export, the following information is supplied by its competent authorities to the competent authorities of the importing country —

- (i) Name and address of the exporter and importer and, when available, the consignee;
- (ii) Name of the substance in Table I;
- (iii) Quantity of the substance to be exported;
- (iv) Expected point of entry and expected date of dispatch;
- (v) Any other information which is mutually agreed upon by the Parties.

(b) A Party may adopt more strict or severe measures of control than those provided by this paragraph if, in its opinion, such measures are desirable or necessary.

11. Where a Party furnishes information to another Party in accordance with paragraphs 9 and 10 of this article, the Party furnishing such information may require that the Party receiving it keep confidential any trade, business, commercial or professional secret or trade process.

12. Each Party shall furnish annually to the Board, in the form and manner provided for by it and on forms made available by it, information on:

(a) The amounts seized of substances in Table I and Table II and, when known, their origin;

(b) Any substance not included in Table I or Table II which is identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances, and which is deemed by the party to be sufficiently significant to be brought to the attention of the Board;

(c) Methods of diversion and illicit manufacture.

13. The Board shall report annually to the Commission on the implementation of this article and the Commission shall periodically review the adequacy and propriety of Table I and Table II.

14. The provisions of this article shall not apply to pharmaceutical preparations, nor to other preparations containing substances in Table I or Table II that are compounded in such a way that such substances cannot be easily used or recovered by readily applicable means.

### **Article 13**

## **MATERIALS AND EQUIPMENT**

The Parties shall take such measures as they deem appropriate to prevent trade in and the diversion of materials and equipment for illicit production or manufacture of narcotic drugs and psychotropic substances and shall co-operate to this end.

## Article 14

### MEASURES TO ERADICATE ILLICIT CULTIVATION OF NARCOTIC PLANTS AND TO ELIMINATE ILLICIT DEMAND FOR NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

1. Any measures taken pursuant to this Convention by Parties shall not be less stringent than the provisions applicable to the eradication of illicit cultivation of plants containing narcotic and psychotropic substances and to the elimination of illicit demand for narcotic drugs and psychotropic substances under the provisions of the 1971 Convention, the 1961 Convention as amended and the 1971 Convention.

2. Each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory. The measures adopted shall respect fundamental human rights and shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.

3. (a) The Parties may co-operate to increase the effectiveness of eradication efforts. Such co-operation may, *inter alia*, include support, when appropriate, for integrated rural development leading to economically viable alternatives to illicit cultivation. Factors such as access to markets, the availability of resources and prevailing socio-economic conditions should be taken into account before such rural development programmes are implemented. The Parties may agree on any other appropriate measures of co-operation.

(b) The Parties shall also facilitate the exchange of scientific and technical information and the conduct of research concerning eradication.

(c) Whenever they have common frontiers, the Parties shall seek to co-operate in eradication programmes in their respective areas along those frontiers.

4. The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances with a view to reducing human suffering and eliminating financial incentives for illicit traffic. These measures may be based, *inter alia*, on the recommendations of the United Nations, specialised agencies of the United Nations such as the World Health Organisation, and other competent international organisations, and on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Trafficking, held in 1987, as it pertains to governmental and non-governmental agencies and private efforts in the fields of prevention, treatment and rehabilitation. The Parties may enter into bilateral or multilateral agreements or arrangements aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances.

5. The Parties may also take necessary measures for early destruction or lawful disposal of the narcotic drugs, psychotropic substances and substances in Table I and Table II which have been seized or confiscated and for the admissibility as evidence of duly certified necessary quantities of such substances.





## Article 15

### COMMERCIAL CARRIERS

1. The Parties shall take appropriate measures to ensure that means of transport operated by commercial carriers are not used in the commission of offences established in accordance with article 3, paragraph 1; such measures may include special arrangements with commercial carriers.
2. Each Party shall require commercial carriers to take reasonable precautions to prevent the use of their means of transport for the commission of offences established in accordance with article 3, paragraph 1. Such precautions may include:
  - (a) If the principal place of business of a commercial carrier is within the territory of the Party:
    - (i) Training of personnel to identify suspicious consignments or persons;
    - (ii) Promotion of integrity of personnel;
  - (b) If a commercial carrier is operating within the territory of the Party:
    - (i) Submission of cargo manifests in advance, whenever possible;
    - (ii) Use of tamper-resistant, individually verifiable seals on containers;
    - (iii) Reporting to the appropriate authorities at the earliest opportunity all suspicious circumstances that may be related to the commission of offences established in accordance with article 3, paragraph 1.
3. Each Party shall seek to ensure that commercial carriers and the appropriate authorities at points of entry and exit and other customs control areas co-operate, with a view to preventing unauthorised access to means of transport and cargo and to implementing appropriate security measures.

## Article 16

### COMMERCIAL DOCUMENTS AND LABELLING OF EXPORTS

1. Each Party shall require that lawful exports of narcotic drugs and psychotropic substances be properly documented. In addition to the requirements for documentation under article 31 of the 1961 Convention, article 31 of the 1961 Convention as amended and article 12 of the 1971 Convention, commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names of the narcotic drugs and psychotropic substances being exported as set out in the respective Schedules of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the quantity being exported, and the name and address of the exporter, the importer and, when available, the consignee.
2. Each Party shall require that consignments of narcotic drugs and psychotropic substances being exported be not mislabelled.

**Article 17****ILLICIT TRAFFIC BY SEA**

1. The Parties shall co-operate to the fullest extent possible to suppress illicit traffic by sea, in conformity with the international law of the sea.
2. A Party which has reasonable grounds to suspect that a vessel flying its flag or not displaying a flag or marks of registry is engaged in illicit traffic may request the assistance of other Parties in suppressing its use for that purpose. The Parties so requested shall render such assistance within the means available to them.
3. A Party which has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying marks of registry of another Party is engaged in illicit traffic may so notify the flag State, request confirmation of registry and, if confirmed, request authorisation from the flag State to take appropriate measures in regard to that vessel.
4. In accordance with paragraph 3 or in accordance with treaties in force between them or in accordance with any agreement or arrangement otherwise reached between those Parties, the flag State may authorise the requesting State to, *inter alia*:
  - (a) Board the vessel;
  - (b) Search the vessel;
  - (c) If evidence of involvement in illicit traffic is found, take appropriate action with respect to the vessel, persons and cargo on board.
5. Where action is taken pursuant to this article, the Parties concerned shall take due account of the need not to endanger the safety of life at sea, the security of the vessel and the cargo or to prejudice the commercial and legal interests of the flag State or any other interested State.
6. The flag State may, consistent with its obligations in paragraph 1 of this article, subject its authorisation to conditions to be mutually agreed between it and the requesting Party, including conditions relating to responsibility.
7. For the purposes of paragraph 3 and 4 of this article, a Party shall respond expeditiously to a request from another Party to determine whether a vessel that is flying its flag is entitled to do so, and to requests for authorisation made pursuant to paragraph 3. At the time of becoming a Party to this Convention, each Party shall designate an authority or, when necessary, authorities to receive and respond to such requests. Such designation shall be notified through the Secretary-General to all other Parties within one month of the designation.
8. A Party which has taken any action in accordance with this article shall promptly inform the flag State concerned of the results of that action.



9. The Parties shall consider entering into bilateral or regional agreements or arrangements to carry out, or to enhance the effectiveness of, the provisions of this article.

10. Action pursuant to paragraph 4 of the article shall be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

11. Any action taken in accordance with this article shall take due account of the need not to interfere with or affect the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea.

## **Article 18**

### **FREE TRADE ZONES AND FREE PORTS**

1. The Parties shall apply measures to suppress illicit traffic in narcotic drugs, psychotropic substances and substances in Table I and Table II in free trade zones and in free ports that are no less stringent than those applied in other parts of their territories.

2. The Parties shall endeavour:

(a) To monitor the movement of goods and persons in free trade zones and free ports, and to that end, shall empower the competent authorities to search cargoes and incoming and outgoing vessels, including pleasure aircraft and fishing vessels, as well as aircraft and vehicles and, when appropriate, to search crew members, passengers and their baggage;

(b) To establish and maintain a system to detect consignments suspected of containing narcotic drugs, psychotropic substances and substances in Table I and Table II passing into or out of free trade zones and free ports;

(c) To establish and maintain surveillance systems in harbour and dock areas and at airports and border control points in free trade zones and free ports.

## **Article 19**

### **THE USE OF THE MAILS**

1. In conformity with their obligations under the Conventions of the Universal Postal Unions and in accordance with the basic principles of their domestic legal system, the Parties shall adopt measures to suppress the use of the mails for illicit traffic and shall co-operate with one another to that end.

2. The measures referred to in paragraph 1 of this article shall include, in particular:

(a) Co-ordinated action for the prevention and repression of the use of the mails for illicit traffic;

(b) Introduction and maintenance by authorised law enforcement personnel of investigative and control techniques designed to detect illicit consignments of



narcotic drugs, psychotropic substances and substances in Table I and Table II in the mails;

(c) Legislative measures to enable the use of appropriate means to secure evidence required for judicial proceedings.

## **Article 20**

### **INFORMATION TO BE FURNISHED BY THE PARTIES**

1. The Parties shall furnish, through the Secretary-General, information to the Commission on the working of this Convention in their territories and, in particular:

(a) The text of laws and regulations promulgated in order to give effect to the Convention;

(b) Particulars of cases of illicit traffic within their jurisdiction which they consider important because of new trends disclosed, the quantities involved, the sources from which the substances are obtained, or the methods employed by persons so engaged.

2. The Parties shall furnish such information in such a manner and by such dates as the Commission may request.

## **Article 21**

### **FUNCTIONS OF THE COMMISSION**

The Commission is authorised to consider all matters pertaining to the aims of this Convention and, in particular:

(a) The Commission shall, on the basis of the information submitted by the Parties in accordance with Article 20, review the operation of this Convention;

(b) The Commission may make suggestions and general recommendations based on the examination of the information received from the Parties;

(c) The Commission may call the attention of the Board to any matters which may be relevant to the functions of the Board;

(d) The Commission shall, on any matter referred to it by the Board under article 22, paragraph 1(b), take such action as it deems appropriate;

(e) The Commission may, in conformity with the procedures laid down in article 12, amend Table I and Table II;

(f) The Commission may draw the attention of non-Parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.



**Article 22****FUNCTIONS OF THE BOARD**

1. Without prejudice to the functions of the Commission under article 21, and without prejudice to the functions of the Board and the Commission under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention:

(a) If, on the basis of its examination of information available to it, to the Secretary-General or to the Commission, or of information communicated by United Nations organs, the Board has reason to believe that the aims of this Convention in matters related to its competence are not being met, the Board may invite a Party or Parties to furnish any relevant information:

(b) With respect to articles 12, 13 and 16:

- (i) After taking action under subparagraph (a) to this article, the Board, if satisfied that it is necessary to do so, may call upon the Party concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of articles 12, 13 and 16;
- (ii) Prior to taking action under (iii) below, the Board shall treat as confidential its communications with the Party concerned under the preceding subparagraphs;
- (iii) If the Board finds that the Party concerned has not taken remedial measures which it has been called upon to take under this subparagraph, it may call the attention of the Parties, the Council and the Commission to the matter. Any report published by the Board under this subparagraph shall also contain the views of the Party concerned if the latter so requests.

2. Any Party shall be invited to be represented at a meeting of the Board at which a question of direct interest to it is to be considered under this article.

3. If in any case a decision of the Board which is adopted under this article is not unanimous, the views of the minority shall be stated.

4. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

5. In carrying out its functions pursuant to subparagraph 1(a) of this article, the Board shall ensure the confidentiality of all information which may come into its possession.

6. The Board's responsibility under this article shall not apply to the implementation of treaties or agreements entered into between Parties in accordance with the provisions of this Convention.

7. The provision of this article shall not be applicable to disputes between Parties falling under the provisions of article 32.



**Article 23****REPORTS OF THE BOARD**

1. The Board shall prepare an annual report on its work containing an analysis of the information at its disposal and, in appropriate cases, an account of the explanations, if any, given by or required of Parties, together with any observations and recommendations which the Board desires to make. The Board may make such additional reports as it considers necessary. The reports shall be submitted to the Council through the Commission which may make such comments as it sees fit.
2. The reports of the Board shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

**Article 24****APPLICATION OF STRICTER MEASURES THAN THOSE REQUIRED BY THIS CONVENTION**

A Party may adopt more strict or severe measures than those provided by this Convention if, in its opinion, such measures are desirable or necessary for the prevention or suppression of illicit traffic.

**Article 25****NON-DEROGATION FROM EARLIER TREATY RIGHTS AND OBLIGATIONS**

The provisions of this Convention shall not derogate from any rights enjoyed or obligations undertaken by Parties to this Convention under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention.

**Article 26****SIGNATURE**

This Convention shall be open for signature at the United Nations Office at Vienna from 20 December 1988 to 28 February 1989, and thereafter at the Headquarters of the United Nations at New York, until 20 December 1989, by:

- (a) All States;
- (b) Namibia, represented by the United Nations Council for Namibia;
- (c) Regional economic integration organisations which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention, references under the Convention to Parties, States or national services being applicable to these organisations within the limits of their competence.



**Article 27****RATIFICATION, ACCEPTANCE, APPROVAL OR ACT OF FORMAL CONFIRMATION**

1. This Convention is subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to acts of formal confirmation by regional economic integration organisations referred to in article 26, subparagraph (c). The instruments of ratification, acceptance or approval and those relating to acts of formal confirmation shall be deposited with the Secretary-General.
2. In their instruments of formal confirmation, regional economic integration organisations shall declare the extent of their competence with respect to the matters governed by this Convention. These organisations shall also inform the Secretary-General of any modification in the extent of their competence with respect of the matters governed by the Convention.

**Article 28****ACCESSION**

1. This Convention shall remain open for accession by any State, by Namibia, represented by the United Nations Council for Namibia and by regional economic integration organisations referred to in article 26, subparagraph (c).

Accession shall be effected by the deposit of an instrument of accession with the Secretary General.

2. In their instruments of accession, regional economic integration organisations shall declare the extent of their competence with respect to the matters governed by this Convention. These organisations shall also inform the Secretary-General of any modification in the extent of their competence with respect to the matters governed by the Convention.

**Article 29****ENTRY INTO FORCE**

1. This Convention shall enter into force on the ninetieth day after the date of the deposit with the Secretary-General of the twentieth instrument of ratification, acceptance, approval or accession by States or by Namibia, represented by the Council for Namibia.
2. For each State or for Namibia, represented by the Council for Namibia, ratifying, accepting, approving or acceding to this Convention after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organisation referred to in article 26, subparagraph (c) depositing an instrument relating to an act or formal confirmation or an instrument of accession, this Convention shall enter into force on the ninetieth day after such deposit, or at the date the Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

### **Article 30**

#### **DENUNCIATION**

1. A Party may denounce this Convention at any time by a written notification addressed to the Secretary-General.
2. Such denunciation shall take effect for the Party concerned one year after the date of receipt of the notification by the Secretary-General.

### **Article 31**

#### **AMENDMENTS**

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated by that Party to the Secretary-General, who shall communicate it to the other Parties and shall ask them whether they accept the proposed amendment. If a proposed amendment so circulated has not been rejected by any Party within twenty-four months after it has been circulated, it shall be deemed to have been accepted and shall enter into force in respect of a Party ninety days after that Party has deposited with the Secretary-General an instrument expressing its consent to be bound by that amendment.
2. If a proposed amendment has been rejected by any Party, the Secretary-General shall consult with the Parties and, if a majority so requests, he shall bring the matter, together with any comments made by the Parties, before the Council which may decide to call a conference in accordance with article 62, paragraph 4, of the Charter of the United Nations. Any amendment resulting from such a Conference shall be embodied in a Protocol of Amendment. Consent to be bound by such a Protocol shall be required to be expressed specifically to the Secretary-General.

### **Article 32**

#### **SETTLEMENT OF DISPUTES**

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the Parties shall consult together with a view to the settlement of the dispute by negotiation, enquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.





2. Any such dispute which cannot be settled in the manner prescribed in paragraph 1 of this article shall be referred, at the request of any one of the States Parties to the dispute, to the International Court of Justice for decision.
3. If a regional economic integration organisation referred to in article 26, subparagraph (c) is a Party to a dispute which cannot be settled in the manner prescribed in paragraph 1 of this article, it may, through a State Member of the United Nations, request the Council to request an advisory opinion of the International Court of Justice in accordance with article 65 of the Statute of the Court, which opinion shall be regarded as decisive.
4. Each State, at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, or each regional economic integration organisation, at the time of signature or deposit of an act of formal confirmation or accession, may declare that it does not consider itself bound by paragraphs 2 and 3 of this article. The other Parties shall not be bound by paragraphs 2 and 3 with respect to any Party having made such a declaration.
5. Any Party having made a declaration in accordance with paragraph 4 of this article may at any time withdraw the declaration by notification to the Secretary-General.

### Article 33

#### AUTHENTIC TEXTS

The Arabic, Chinese, English, Russian and Spanish texts of this Convention are equally authentic.

### Article 34

#### DEPOSITORY

The Secretary-General shall be the depository of this Convention.

#### ANNEX

##### Table I

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Acetic anhydride  
 N-acetylanthranilic acid  
 4-Anilino-*N*-phenethylpiperidine (ANPP)  
 Ephedrine  
 Ergometrine  
 Ergotamine  
 Isosafrole  
 Lysergic acid

##### Table II

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Acetone  
 Anthranilic acid  
 Ethyl ether  
 Hydrochloric acid  
 Methyl ethyl ketone  
 Piperidine  
 Sulphuric acid  
 Toluene

3,4-MDP-2-P Methyl glycidate ("PMK glycidate")

3,4-MDP-2-P Methyl glycidate acid ("PMK glycidate acid")

3,4-methylenedioxyphenyl-2-propanone (3, 4-MDP-2-P)

Norephedrine

N-Phenethyl-4-piperidone (NPP)

Phenylacetic acid

*Alpha*-Phenylacetoacetamide (APAA)

*Alpha*-Phenylacetoacetonitrile (APAAN)

1-Phenyl-2-propanone (P-2-P)

Piperonal

Potassium permanganate

Pseudoephedrine

Safrole

The salts of the substances listed in this Table whenever the existence of such salts is possible

The salts of the substances listed in this Table whenever the existence of such salts is possible (the salts of hydrochloric acid and sulphuric acid are specifically excluded)

**Publication in consolidated and revised form authorised by the Cabinet this 7th day of January, 2020.**

**Kim Bullings**  
*Clerk of the Cabinet*



## ENDNOTES

### Table of Legislation History:

SL #	Law #	Legislation	Commencement	Gazette
50/2019		Criminal Justice (International Cooperation) (Amendment of Schedule) (No.2) Order, 2019	18-Dec-2019	LG46/2019/s3
23/2019		Criminal Justice (International Cooperation) (Amendment of Schedule) Order, 2019	15-May-2019	LG16/2019/s7
		<b>Criminal Justice (International Cooperation) Law (2010 Revision)</b>	25-Oct-2010	G22/2010/s3
	19/2012	Director of Public Prosecutions (Miscellaneous Amendments) Law, 2012 (part)	17-Sept-2012	GE90/2012/s17
	1/2010	Criminal Justice (International Cooperation) (Amendment) Law, 2010	16-Mar-2010	GE16/2010/s1
		<b>Criminal Justice (International Cooperation) Law (2004 Revision)</b>	26-Jul-2004	G15/2004/s6
	29/2003	Misuse of Drugs (International Cooperation) (Amendment) Law, 2003	27-Jan-2003	G2/2004/s1
19/1998		Misuse of Drugs (International Cooperation) Order, 1998	2-Mar-1998	G5/1998/s9
	16/1997	Misuse of Drugs (International Co-operation) Law, 1997	15-Sep-1997	G19/1997/s14

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