



*OIC/CLE-1/2022/MIN/DRAFT/CONVENTION.*

**Draft Makkah Al-Mukarramah Convention of  
the Member States of the Organisation of  
Islamic Cooperation on Anti- Corruption Law  
Enforcement Cooperation**

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## **Preamble**

*The States Parties to this Convention:*

*Recognizing* that protecting integrity and combating corruption in all its forms are amongst the established principles of Islamic Sharia and international laws,

*Being guided* by the principles and objectives stipulated within the Charter of the OIC, in particular Article 1, paragraph 18, which states “To cooperate in combating terrorism in all its forms and manifestations, organized crime, illicit drug trafficking, corruption, money laundering and human trafficking”,

*Reaffirming* the United Nations Convention against Corruption (UNCAC) and recalling its relevant provisions thereof and resolutions of the Conference of States Parties to the UNCAC which encourage to promote informal channels of communication with one another in particular prior to making formal requests for mutual legal assistance,

*Expressing* their support for the international criminal justice cooperation, which aims to serve the actual needs of all States to combat crimes that are positively and negatively affected by the extent of effectiveness of the international criminal justice cooperation and its mechanisms in countering and prosecuting criminal acts,

*Convinced* that international cooperation in the fight against corruption has presently become a necessity due to the increased criminal acts of corruption committed within all States,

*Determined* to enhance cooperation through the exchange of information, intelligence, good practices, lessons learned and available tools utilized in the evidence-gathering stage (preliminary investigation) in corruption cases,

*Expressing* their concern regarding the effects of the accelerating evolution of techniques and means that corrupt perpetrators use in committing their crimes, including cross-border crimes, while being able to escape justice and conceal the proceeds of such crimes,

*Acknowledging* that most existing information and intelligence exchange channels are only effective for specific matters or in some regions, due to existing legal, technical, and geographical constraints; in addition to this, many States face capacity-related challenges, including lack of human, financial, and technical resources as well as external impediments to economic development,

*Expressing* their aspiration to provide several communication channels for cooperation under the OIC, to ensure a prompt response to requests for exchange of information and intelligence amongst law enforcement authorities of the States Parties,

*Understanding* that effective conditions and safeguards for the protection of human rights and fundamental freedoms benefit international cooperation for criminal justice purposes, and that proper attention shall be given to the

protection and observance of the due process rights of the individuals or entities concerned,

*Have agreed as follows:*

## **Chapter I - General provisions**

### **Article 1**

#### **Definitions**

For the purposes of this Convention, the following terms and phrases, wherever stated in this Convention, shall have the following meanings assigned thereto:

<b>Organisation</b>	The Organisation of Islamic Cooperation (OIC)
<b>Convention</b>	Makkah Al- Mukarramah Convention of the Member States of the Organisation of Islamic Cooperation on Anti- Corruption Law Enforcement Cooperation.
<b>Member State/Member States</b>	The OIC Member States.
<b>Secretary-General</b>	Secretary-General of the OIC.
<b>General Secretariat</b>	The General Secretariat of the OIC.
<b>State Party/States Parties</b>	Any Member State of the OIC that has ratified/acceded to this Convention and deposited the instrument of ratification/accession with the Secretary-General in accordance with this Convention.
<b>Request(s)</b>	Request for the exchange of information and intelligence related to offences covered by this Convention.
<b>The Conference</b>	The Conference of the States Parties to this Convention.
<b>Law enforcement authority/authorities</b>	States Parties' designated bodies, agencies and authorities responsible for sending, receiving and responding to requests under this Convention.
<b>Proceeds of crime</b>	Any property derived from or obtained, directly or indirectly, through the commission of one of the offences covered by this Convention.
<b>Foreign public official</b>	Shall mean any person whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise.
<b>Public official</b>	Shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public

	<p>service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;</p> <p>(iii) Any other person defined as a “public official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party.</p>
<b>Official of a public international organization</b>	Shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization.
<b>Property</b>	Shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets.

## **Article 2**

### **Objectives**

This Convention aims to:

1. Enhance information and intelligence sharing amongst law enforcement authorities in an efficient and timely manner for the purpose of facilitating the prevention, detection, investigation and prosecution of offences covered by this Convention which could contribute to the recovery and return of stolen assets.
2. Promote the exchange of technical assistance, expertise and training amongst States Parties to enhance their capacities to share information and intelligence on offences covered by this Convention.

## **Article 3**

### **Scope of application**

This Convention shall apply, in accordance with its terms regarding the exchange of information, intelligence and technical assistance amongst States Parties, to the following corruption offences:

1. Bribery of national public officials.
2. Bribery of foreign public officials and officials of public international organizations.
3. Embezzlement, misappropriation, or other diversion of property by a public official.
4. Trading in influence.
5. Abuse of functions.
6. Illicit enrichment.

7. Bribery in the private sector.
8. Embezzlement of property in the private sector.
9. Laundering of proceeds of crimes covered by this Convention.
10. Concealment of proceeds of crimes covered by this Convention.
11. Obstruction of justice regarding crimes covered by this Convention.
12. Participating in, or attempting to commit, any of the crimes covered under this Article, in an active or supportive role.

#### **Article 4**

#### **Protection of sovereignty**

1. States 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.
2. This Convention shall not entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

### **Chapter II – Areas of cooperation**

#### **Article 5**

#### **Law enforcement cooperation**

States Parties shall cooperate closely with one another, in accordance with this Convention and in a manner not contrary to the fundamental principles of their legal system, to exchange information and intelligence in relation to offences covered by this Convention, including, but not limited to, within the following areas:

1. The identity, whereabouts and activities of persons suspected of involvement in such offences, or the location of other persons concerned.
2. The movement of proceeds of crime or property derived from the commission of such offences.
3. The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences.
4. Latest means and methods used to commit such offences, including the use of false identities, forged, altered or false documents and other means of concealing activities.
5. Early identification of such offences through information sharing which could contribute to the recovery and return of stolen assets.
6. Identification of real beneficiary of movable properties, assets and corporate entities in relation to such offences.
7. Verification of official documents' authenticity.
8. Providing information on the requirements of mutual legal assistance and conditions for accepting requests, which may include the revision, feedback and amendment of the formal requests by the requested State Party, if needed, prior to their submission.

## **Article 6**

### **Technical assistance and training**

1. The States Parties shall consider providing one another with the widest measure of technical assistance, according to their capacity, relevant to their plans and programs for combating offences covered by this Convention, as well as training and assistance in the areas referred to under this Article, including the exchange of specialized expertise and knowledge in this regard.
2. The States Parties shall cooperate with one another to develop and strengthen special training programs for their officials, covering several areas related to combating offences covered by this Convention, including:
  - a) The latest means and tools utilized for preventing, detecting, investigating, and prosecuting offences covered by this Convention, as well as tracing proceeds of crime resulting therefrom;
  - b) The latest methods and trends used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;
  - c) The new methods used to launder proceeds of offences covered by this Convention; and
  - d) The mutual legal assistance requirements relating to offences covered by this Convention.
3. Such cooperation in provision of technical assistance is without prejudice to other forms and channels of cooperation in the said areas, as States Parties may deem appropriate.

## **Article 7**

### **Joining the global network for exchanging information**

States Parties will consider joining the global operational network for anti-corruption law enforcement authorities, established under the auspices of the United Nations Office on Drugs and Crime (UNODC).

## **Chapter III – Information and intelligence requests**

### **Article 8**

#### **Basis and rules**

1. The requesting law enforcement authorities shall, in accordance with the fundamental principles of their legal system, support their outgoing requests with the reasons and purposes behind using such information and intelligence as well as all the necessary details, in a manner that would enable the requested law enforcement authorities to respond to the requests appropriately and in a timely manner.
2. Each State Party shall consider taking the necessary measures, in accordance with the fundamental principles of its legal system, to grant its law enforcement authorities the necessary powers to provide information and intelligence to the law enforcement authorities of another State Party, upon

the request of the latter, for the purpose of enhancing cooperation and preventing, detecting, investigating and prosecuting offences covered by this Convention, as well as tracing proceeds of crime resulting therefrom and facilitating their recovery.

3. In accordance with the fundamental principles of its legal system, each State Party shall take necessary measures not to subject the provision of the information and intelligence sought by virtue of this Convention to another State Party, to the existence of an additional bilateral agreement or an instrument for judicial cooperation for that purpose.
4. Requests shall be executed in accordance with the domestic law of the requested State Party and can be executed in accordance with certain procedures agreed upon by the requesting and requested States Parties, where possible.
5. The language of the requests made under this Convention shall be made in the language or languages specified by States Parties in accordance with Article 15, paragraph 3 of this Convention.

#### **Article 9**

##### **Mechanism of submitting requests**

1. Law enforcement authorities are encouraged to exchange requests directly with one another. The law enforcement authority of the State Party receiving the request shall bear the ordinary financial costs of executing such request, unless otherwise agreed by the requesting and requested States Parties. If the execution of a request requires, or will require, substantial or extraordinary expenses, States Parties shall consult with one another 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.
2. The Conference shall decide on the establishment of a secure platform to facilitate communication and the exchange of information and intelligence amongst the States Parties' law enforcement authorities and determine the requirements and working mechanisms of such platform.

#### **Article 10**

##### **Responding to requests**

1. The requested law enforcement authorities shall, with due consideration, execute requests within a period not exceeding thirty (30) working days from the date of receipt.
2. The requested law enforcement authorities may request additional information when it appears necessary for the execution of the request in accordance with their legal system or when it can facilitate such execution.
3. In the event that the requested law enforcement authorities are unable to respond to requests in accordance with paragraph 1 of this Article, they shall inform the requesting law enforcement authority of the interfering reasons, as well as the timeframe by which they would be able to respond to the request.

**Article 11**  
**Refusal of requests**

1. The requested law enforcement authorities may refuse to respond to requests under the following circumstances:
  - a. If the execution of the request is likely to prejudice the sovereignty, legal system, national security or interests of the State.
  - b. The requested information or intelligence is clearly disproportionate or irrelevant to the purposes for which they have been sought.
  - c. If the sharing of information or intelligence would adversely affect the outcome of ongoing investigations, prosecutions or judicial proceedings.
  - d. If there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions.
2. The requested law enforcement authorities shall provide the reasons for any refusal pursuant to paragraph 1 of this Article.
3. The requested law enforcement authorities should not refuse requests on the basis of the subject being a fiscal matter.

**Article 12**  
**Spontaneous sharing of information and intelligence**

States Parties may, in accordance with the fundamental principles of their legal system, take the necessary measures to allow their law enforcement authorities to share information and intelligence with the law enforcement authorities of other States Parties without any prior request, where there is reason to believe that such sharing could contribute to the prevention, detection, investigation and prosecution of offences covered by this Convention, as well as tracing, recovery and return of proceeds of crime.

**Article 13**  
**Conditions and safeguards**

1. Each State Party shall take the necessary measures to ensure that its law enforcement authorities and persons acting on their behalf shall be bound to the provisions of secrecy and confidentiality of the information and intelligence sought or provided, as well as the process and the context of their exchange.
2. In accordance with this Convention, law enforcement authorities shall not use, convert, transmit or disseminate the information, intelligence or documents exchanged with one another, without the prior written consent of the providing party, other than for the purposes for which they have been requested.

3. The receiving law enforcement authorities may not use the information and intelligence in judicial proceedings for purposes other than those stated in the request.

#### **Article 14**

##### **Protection of data**

Without prejudice to the respective commitments and obligations of the States Parties undertaken under the applicable international rules on data protection:

1. Exchanged information and intelligence under this Convention shall be subject to the national data protection provisions of the requested State Party, and the law enforcement authorities receiving such information and intelligence shall:
  - a) Not share the information and intelligence with a third party without the prior written consent of the providing law enforcement authority; and
  - b) Protect the information and intelligence from any unauthorized disclosure or access, and immediately report to the providing law enforcement authority each instance in which information or intelligence is disclosed or accessed in an unauthorized manner (including any data losses or breaches).
2. The provisions of this Article shall remain in effect even after the expiration of this Convention and the denunciation of this Convention by a State Party.

#### **Chapter IV - Mechanisms for implementation**

##### **Article 15**

##### **The implementation of the Convention**

1. In accordance with the fundamental principles of their legal system, States Parties shall take the necessary measures to ensure the implementation of their commitments and obligations under this Convention.
2. Each State Party shall, in accordance with the fundamental principles of its legal system, designate law enforcement authority/authorities for the purpose of providing assistance in the activities undertaken under this Convention. Each State Party shall inform the General Secretariat of the designated law enforcement authority/authorities, including any amendments to that information; in turn, the General Secretariat shall circulate the information to all States Parties.
3. Each State Party shall inform the General Secretariat of the language or languages under which the requests will be executed; in turn, the General Secretariat shall circulate the information to all States Parties.

**Article 16**  
**Conference of the States Parties to the Convention**

1. A Conference of States Parties is hereby established to improve the States Parties' capacity and means of cooperation towards achieving the objectives of this Convention, as well as to promote its implementation.
2. The Secretary-General shall convene the Conference no later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference shall be held in accordance with the rules of procedure adopted by the Conference, or as required to ensure the optimal implementation of this Convention. States Parties are encouraged to have the heads of law enforcement authorities, referred to in Article 15, paragraph 2 of this Convention, present at the Conference.
3. The Conference shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.
4. The Conference shall adopt activities, procedures, and working methods to achieve the objectives of this Convention, including:
  - a. Facilitating the exchange and dissemination of information on means and trends in combating offences covered by this Convention and successful practices in this regard, as well as in recovering proceeds of such offences; and
  - b. Cooperating with international and regional organizations concerned with combating offences covered by this Convention.
5. The Conference shall take, if it deems necessary, any decisions that would ensure the effective implementation of this Convention.
6. The Conference shall follow up on the measures taken by States Parties to implement this Convention, and the obstacles faced in this regard, through information shared by the States Parties.
7. The Conference shall establish, if it deems necessary, any appropriate mechanism, body, committee or task force to assist in the effective implementation of this Convention.
8. The Conference shall adopt the proposed amendments to this Convention by the States Parties in accordance with Article 21 of this Convention.
9. Decisions of the Conference shall be taken by consensus. If consensus cannot be reached, decisions shall be taken by a two-thirds majority vote of the States Parties present and voting.

**Article 17**  
**General Secretariat**

The General Secretariat shall provide the necessary services to the Conference through the following:

1. Assisting the Conference in carrying out the activities undertaken under this Convention and making arrangements as well as providing the necessary services for the sessions of the meetings.
2. Upon request, assisting States Parties in providing information to the Conference in accordance with the provisions of this Convention.

3. Preparing a periodical report for the Conference, based on the views received from the State Parties on the challenges and obstacles regarding its implementation, and the proposed mechanisms to overcome them.
4. Cooperating, where necessary, with the Secretariats of relevant international and regional organizations.
5. Establishing a database for law enforcement authorities, covering their focal points. The database shall be updated and circulated when required or at the request of a State Party.

## **Chapter V- Final provisions**

### **Article 18**

#### **Settlement of disputes**

1. States Parties shall endeavor to settle disputes relating to the interpretation or application of the provisions of this Convention through negotiation.
2. In case of failure to reach consensus through negotiation within a reasonable time, the dispute will be referred to the General Secretariat for its assistance in taking the dispute to arbitration with the consent of all state parties to the dispute.

### **Article 19**

#### **Signature, ratification, acceptance, approval, accession**

1. This Convention shall be open to all Member States of the OIC for signature from ..... to ..... in the city of .....
2. International and regional organizations may be granted Observer status subject to the fulfillment of 'Terms of Engagement' formulated by the Conference of the States Parties to this Convention in the light of Article 4 of the OIC Charter and the Rules governing Observer Status at the Organization of Islamic Cooperation.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General.
4. This Convention is open for accession by any Member State of the OIC. Instruments of accession shall be deposited with the Secretary-General.

### **Article 20**

#### **Entry into force**

1. This Convention shall enter into force on the thirtieth day after the date of deposit of the nineteenth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by an international or regional organization shall not be counted as additional to those deposited by member States of such organization.
2. For each Member State ratifying, accepting, approving or acceding to this Convention after the deposit of the nineteenth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such Member State of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this Article, whichever is later.

**Article 21**  
**Amendments**

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference for the purpose of considering and deciding on the proposal. The Conference shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference.
2. An amendment adopted in accordance with paragraph 1 of this Article is subject to ratification, acceptance or approval by States Parties.
3. An amendment adopted in accordance with paragraph 1 of this Article shall enter into force in respect of a State Party thirty days after the date of the deposit with the Secretary-General of an instrument of ratification, acceptance or approval of such amendment.
4. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

**Article 22**  
**Denunciation**

A State Party may denounce this Convention by written notification to the Secretary-General. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General. Requests sent, under this Convention, to the denouncing State shall remain effective as long as they have been sent before the expiration of the denunciation period.

**Article 23**  
**Deposition**

The original of this Convention, of which the Arabic, English, and French texts are equally authentic, shall be deposited with the General Secretariat, who in turn shall register it with the United Nations in accordance with the provisions of Article 102 of its Charter, and shall distribute an approved version of the Convention to the States Parties.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.