

G20 High-Level Principles on Mutual Legal Assistance

Mutual legal assistance in criminal matters is a process, generally governed by treaty or authorized by domestic law, by which countries seek and provide information that may be used as evidence in criminal cases. Regarding corruption, effective and efficient MLA is essential in the investigation and prosecution of transnational corruption cases, and the recovery of assets derived from such criminal conduct.

Article 46.1 of the United Nations Convention against Corruption (UNCAC) provides that *“State Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.”*

Article 9 of the OECD Anti-Bribery Convention provides that *“Each Party shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings brought by a Party concerning offences within the scope of this Convention.”*

Although not limited to corruption, the United Nations Convention against Transnational Organized Crime (UNTOC) requires, in its Article 8 that parties criminalize corruption. Pursuant to Article 18.1, States Parties are required to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention. In addition, States Parties are also obliged to reciprocally extend to one another similar assistance where the requesting State has reasonable grounds to suspect that one or some of these offences are transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State party and that they involve an organized criminal group.

The following principles build on practice developed by G20 countries and beyond regarding MLA, and identify mechanisms that have proven useful for addressing related challenges. These principles have been developed on the basis of recommendations on best practices arising from the implementation of the UNCAC and the UNTOC or agreed upon in relevant United Nations fora, as well good practices identified by the OECD Working Group on Bribery through its Typology exercise and its regular monitoring of States Parties' implementation of the Anti-Bribery Convention.

Taking into account the diversity of legal systems among G20 countries, these principles are broadly framed and offer flexibility to enable countries to use them within their institutional and legal constraints. They are intended as guidance to enhance and complement existing anti-corruption commitments and not weaken or replace them.

- Principle 1** An effective legal basis for providing and requesting MLA in bribery and corruption cases should be adopted.
- Principle 2** An effective institutional framework for MLA should be established, including by:
- i) designating a Central Authority and exchanging central authority contacts with other states; and
 - ii) ensuring resources for the provision and requesting of MLA are adequate and efficiently used.
- Principle 3** Mechanisms for timely responses to MLA should be put in place, including by:
- i) providing clear, accessible information regarding the procedural requirements for MLA;
 - ii) ensuring prompt transmission of requests by the central authority to the executing authorities;
 - iii) maintaining open and direct lines of communication between central authorities, and encouraging whenever possible mechanisms for informal cooperation before the submission of an MLA request; and
 - iv) allowing for flexibility regarding the manner and form in which MLA requests are executed in the requested State to allow for the full use of the assistance granted in the requesting States' proceedings in accordance with countries' legal systems.
- Principle 4** Cooperation and coordination between jurisdictions should be facilitated, in accordance with countries' legal systems, including by:
- i) facilitating, where appropriate, direct contacts between law enforcement agencies;
 - ii) clarifying the circumstances in which alternative forms of cooperation should be preferred to formal requests for MLA;
 - iii) developing mechanisms for collaborative or joint investigations.
- Principle 5** International exchange of information through other mechanisms, should be allowed, in accordance with countries' legal systems, including by:
- i) facilitating exchange of financial intelligence obtained by FIUs;
 - ii) facilitating exchange of tax information; and
 - iii) facilitating exchange of information with securities and other regulators.
 - iv) facilitating cooperation, as appropriate, with intergovernmental organizations.

Principle 6 States should continue their efforts to build and promote flexible and efficient schemes of cooperation targeting the proceeds of corruption and bribery by, inter alia:

- i) developing or reviewing domestic legislation or practice to enable greater flexibility in providing assistance in asset recovery requests in line with chapter V of the UNCAC and consistent with other relevant international standards, including the Financial Action Task Force recommendations.