

ORGANIZATION OF AMERICAN STATES



INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION

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Indicators On Transnational Organized Crime
Multilateral Evaluation Mechanism (MEM)

Indicators Proposed by Mexico regarding Transnational Organized Crime for the Multilateral Evaluation Mechanism (MEM)

The Indicators referred to were presented during the First Inter-American Meeting on Cooperation Mechanisms to Fight Against Organized Crime which took place in Mexico City between the 6th and 8th of October, 2003.

The commentaries and responses from the following countries: El Salvador, Haiti, Dominican Republic, Colombia, Costa Rica, Peru, and Argentina were kept in mind during the presentation.

The referred to comments were then incorporated into the indicators as a result of an analysis of the Reunion.

The following countries offered their support during the meeting: Brazil, Chile, United States, Mexico (the country that introduced the idea), Venezuela, and Ecuador amongst others.

The two proposed indicators focus on the actual juridical base that exists against transnational organized crime and the international cooperation that exists to control it.

The processing of the indicators during the Reunion kept in mind the experience of the countries regarding this topic. The process was undertaken point by point and the indicators were modified.

It is anticipated that they will be approved by CICAD for their use during the Third Evaluation Round (2003-2004).

1

Prevention, control and repression of Transnational Organized Crime⁽¹⁾ in relation to illicit drug trafficking and related crimes

PURPOSE OF INDICATOR:

ESTABLISH THE SCOPE OF EXISTING PREVENTIVE, CONTROL AND REPRESSIVE MEASURES TO CONFRONT TRANSNATIONAL ORGANIZED CRIME IN RELATION TO ILLICIT DRUG TRAFFICKING AND RELATED CRIMES

A. What Legal Mechanisms does your country have in place to combat Transnational Organized Crime?:

1. **Y** **N**

a. If the answer is no, are laws being drafted and what is the status for their eventual adoption?

b. If the answer is yes, please provide the title of the principal law/laws and include examples of how this legislation has recently been effectively applied.

B. Crimes and cooperative measures that are covered by the National Law(s):

1. Crimes covered by National Law(s):

a. **Y** **N**

b.

- c. Corruption
- d. Obstruction of justice
- e. Trafficking in persons ⁽³⁾
- f. Illicit trafficking of migrants
- g. Illicit manufacture and trafficking of firearms, their parts, components and ammunition on an international level
- h. Others if applicable (please describe):

2. Cooperation measures covered by National Law(s):

- | | Y | N | |
|----|--------------------------|--------------------------|---|
| a. | <input type="checkbox"/> | <input type="checkbox"/> | Extradition |
| b. | <input type="checkbox"/> | <input type="checkbox"/> | Mutual joint legal assistance: cautionary and enforcement measures |
| c. | <input type="checkbox"/> | <input type="checkbox"/> | Seizure and confiscation ⁽⁴⁾ |
| d. | <input type="checkbox"/> | <input type="checkbox"/> | Interdiction operations |
| e. | <input type="checkbox"/> | <input type="checkbox"/> | Victim protection and assistance |
| f. | <input type="checkbox"/> | <input type="checkbox"/> | Other forms of cooperation: If applicable, please explain and describe what they involve: |

C. Special investigation techniques included in the national law:

- | | Y | N | |
|----|--------------------------|--------------------------|--|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | Undercover operations ⁽⁵⁾ |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | Telephone line tapping ⁽⁶⁾ |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | Controlled deliveries ⁽⁷⁾ |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | Others (if applicable, please describe): |

- D. Observations:
(Please provide narrative data with any necessary explanatory notes to facilitate a more complete report on the situation in your country which will contribute to the analysis and provide insight on the strengths, areas for development and ways that additional cooperative techniques in the Hemisphere may contribute to the common objectives in combating transnational organized crime.)

- E. Agency (s) coordinating the presentation of information:

- F. Principal Official(s) coordinating the input of information for this indicator. Please provide a telephone number and e-mail address of the person responsible for responding to this indicator.

DEFINITIONS AND EXPLANATIONS:

- (1) **Transnational Organized Crime** is carried out by:

(2) a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the United Nations Convention against Transnational Organized Crime, in order to obtain, directly or indirectly, a financial or other material benefit. (Article 2(a) United Nations Convention against Transnational Organized Crime).

The offence is transnational in nature if:

- a) It is committed in more than one State;
- b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- c) It is committed in one State, but involves an organized criminal group that engages in more than one State; or
- d) It is committed in one State but has substantial effects in another State.

(Article 3(2), United Nations Convention against Transnational Organized Crime)

(3) "**Trafficking in persons**" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children).

(4) **Confiscation**, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority. (Article 2(g) United Nations Convention against Transnational Organized Crime)

(5) **Undercover operations** are those that authorize law enforcement agents assuming fictitious identities to infiltrate criminal organizations in order to obtain evidence or other information relating to violations of one or more criminal laws. They may include employment of a ruse or deception - the provision of useful data to commit an offence - but shall not encourage suspects to commit crimes that they are not predisposed to commit.

(6) **Telephone line tapping** is gaining access to cable, oral or electronic communications.

(7) **Controlled delivery** shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence. (Article 2(i) United Nations Convention against Transnational Organized Crime)

2

Enforcement of laws against Transnational Organized Crime in relation to illicit drug trafficking and related crimes

PURPOSE OF INDICATOR:

TO ESTABLISH THE EFFECTIVENESS OF HEMISPHERIC LAWS TO PREVENT, CONTROL AND REPRESS TRANSNATIONAL ORGANIZED CRIME IN RELATION TO ILLICIT DRUG TRAFFICKING AND RELATED CRIMES.

A. Name the principal institutions responsible for enforcing laws against transnational organized crime and their primary functions (e.g., intelligence (1), data banks, investigative and arrest authority, liaison (2) functions with similar agencies in other countries etc.)

1. Agency:

1a. Principal Function:

2. Agency:

2a. Principal Function:

3. Agency:

3a. Principal Function:

(Continue until main agencies are covered)

B. Are training programs available for officials responsible for enforcing laws against transnational organized crime?

Y

N

1. If the answer is yes, please describe the main programs, their institutional affiliation and how often training is offered.

2. If training programs exist, please indicate how many officials and what type of officials received this training during the period 2002-2004

Number of persons trained		
2002	2003	2004

3. If there are no training programs, please describe the most urgent areas needed for training, e.g., basic police techniques, investigative techniques, instruction in basic law etc. Explain why these training areas represent a priority.

- C. Do mechanisms exist to evaluate the efficiency of the main institutions responsible for the prevention, control and repression of transnational organized crime?

Y **N**

1. If the answer is yes, please briefly describe the main systems in place for the evaluation of institutional efficiency. Describe the nature of sanctions against institutions or persons, if any, and, if possible, how they have been applied.

- D. Are systems in place in the main institutions associated with the prevention, control and repression of transnational organized crime to ensure that employees are properly screened before hiring and then periodically reviewed to ensure that they are trustworthy and not subject to bribery or extortion (measures to minimize corruption)?

Y **N**

1. If the answer is yes, please briefly describe the main systems in place to ensure top to bottom employee honesty and to curb bribery and corruption. Describe the nature of sanctions against institutions or persons, if any, and, if possible, how they have been applied.

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2. If the answer is no, please describe any mechanisms being considered in your country to achieve such goals.

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- E. If transnational organized crime is criminalized in your country, how many persons were arrested, tried and convicted for crimes related to transnational organized crime during the period 2002-2004:

1.

Number of persons arrested		
2002	2003	2004

2.

Number of persons tried		
2002	2003	2004

3.

Number of persons convicted		
2002	2003	2004

4.

Observations: Countries whose legislation includes plea bargaining , please indicate this in your response as this would not reflect statistically in the arrest-trial data.

- F. When reviewing these statistics, do officials familiar with the problem believe that these statistics accurately reflect the magnitude of the problem of transnational organized crime in your country? Please explain with analysis that represents the views of experts in the field in your country. This narrative may be included in the section for observations.

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G. Please provide information on requests for assistance made and received in relation to transnational organized crime in the period 2002-2004.

1.

Number of reports received and granted					
2002		2003		2004	
Received	Granted	Received	Granted	Received	Granted

2.

Number of reports requested and granted					
2002		2003		2004	
Requested	Granted	Requested	Granted	Requested	Granted

H. Observations:
 (Please provide narrative data with any necessary explanatory notes to facilitate a more complete report on the situation in your country which will contribute to the analysis and provide insight on the strengths, areas for development and ways that additional cooperative techniques in the Hemisphere may contribute to the common objectives in combating transnational organized crime.)

I. Agency (s) coordinating the presentation of information:

J. Principal Official(s) coordinating the input of information for this indicator. Please provide a telephone number and e-mail address of the person responsible for responding to this indicator.

DEFINITIONS AND EXPLANATIONS:

(1) **Intelligence agencies** (pending)

(2) **Liaison agents** (pending)