

HIGH LEVEL WORKSHOP - WORKING GROUP ON ALTERNATIVES TO IMPRISONMENT

PREPARATORY QUESTIONNAIRE

Antigua, Guatemala. 17 to 19 June 2014

The Executive Secretariat of the Inter-American Drug Abuse Control Commission (CICAD / OAS), with close collaboration with the Government Delegation for the National Plan on Drugs (DGPNSD) of the Ministry of Health, Social Policy and Equality of Spain, has the honor of carrying out a series of specialized training activities at the highest level on issues of priority for both the Government of Spain and the OAS.

This time is through the leadership of the Ministry of Justice of Colombia and the Spanish Agency for International Development, this Secretariat has the honor of organizing the "High level Workshop on Alternatives to Incarceration" to be held from 17 to 19 June 2014, at the Training Centre of Spanish Cooperation in Antigua, Guatemala. As part of this event different alternatives to incarceration for drug-related crimes will be discussed and analyzed as a means to serve as a reference for Member States.

This high-level workshop falls within the "Working Group on Alternatives to Incarceration," a proposal made by the Colombian government during CICAD 54, held in December 2013 in Bogotá, Colombia, and approved later during the CICAD 55 in Washington, DC in April 2014. Colombia's government, as President of the CICAD, in collaboration with Executive Secretariat of CICAD/OEA will use this initiative to develop a technical report on existing and possible alternatives to incarceration for drug-related crimes under international drug control conventions, taking into account the reality of violations, patterns of use and regulatory frameworks of each country and the context of the Hemispheric Drug Strategy and Action Plan 2011-2015. The group will and present their progress to the CICAD 56 and its final report to the CICAD 57.

Thank you very much for taking the time to complete this preparatory form. Information about each participating country is of great importance to ensure adequate preparation of the experts, thus ensuring informed sessions that work toward achieving the objectives of the workshop.

If you have questions about this questionnaire, please contact us by email or phone ahenao@oas.org (202) 3705466.

COUNTRY	
NATIONAL ENTITY THAT EVALUATED THIS QUESTIONNAIRE	

1. Criminalization of illicit traffic means the offences set forth in article 3, paragraphs 1 and 2. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally.					
OFFENSES (OBLIGATORY)		Punish, Yes or No	Sanctions	Law (Article)	Comments
Article 3(1)(a)(i)	1. Production				
	2. Manufacture				
	3. Extraction				
	4. Preparation				
	5. Offering				
	6. Offering for sale				
	7. Distribution				
	8. Sale				
	9. Delivery				
	10. Brokerage				
	11. Dispatch				
	12. Dispatch in transit				
	13. Transport				
	14. Importation				
	15. Exportation				
3(1)(a)(ii)	16. Cultivation				
3(1)(a)(iii)	17. Possession				
	18. Purchase				
OTHER SANCTIONED CONDUCT					
-Do forms of negligence of the commission of these offenses exist in the law?					
-Are there any aspects of misconduct in the law?					

2. For the personal consumption 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.				
OFFENSES (RESERVATION) ¹	Punish, Yes or No	Sanctions (Complement or Alternative) ²	Law (Article)	Comments
3(2)	1. Possession			3(2)
	2. Purchase			
	3. Cultivation			
OTHER CONDUCT				

ALTERNATIVES AND COMPLEMENTS TO INCARCERATION

3. Alternatives (A) or complements (C) to incarceration of offenses established in Article 3(1) y (2) .									
ALTERNATIVE (A) OR COMPLEMENTARY(C) MEASURES (OBLIGATORY)	Exist? (A or C)	Name of Option	Law (Article)	What type of offender is eligible?	Under what type of offense is the option permitted?	Is the option voluntary or obligatory?	Competency of offering the option.	Comments	
Article 3(4)(b-d)	1. Treatment								
	1. Education								
	2. Aftercare								
	3. Rehabilitation								
	4. Social reintegration								
OTHER CONDUCT									
Administrative sanctions									

PENITENTIARY SYSTEM

¹ Article3(2) Subject to its constitutional principles and the basic concepts of its legal system.

² Article3(4)(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.

4.	Overview of the national penitentiary system
A.	What is the total population of the country?
B.	How many states/districts/provinces?
C.	How many prisons? How are they distributed geographically?
D.	How many pre-trial detention facilities? How are they distributed geographically?
E.	How many young offender institutions? How are they distributed geographically?
F.	How many prisons for female offenders? How are they distributed geographically?
G.	What types of prison exist at present, e.g. maximum/medium security; central/district/state prisons?
H.	Are there any open prisons? How many?
I.	Are there any privately run prisons? How many? Who runs them?

5.	Prison population
A.	What is the total prison population?
B.	What is the prison population rate per 100,000 population? For example, if there are 10,000 prisoners in a population of 10 million, the rate is 100:100,000.
C.	What is the capacity of the prisons system? How is this capacity measured, i.e. m2 per person?
D.	What are the maximum and minimum capacities of each type of prison and what is the actual population?
E.	What is the capacity of open prisons and what is the actual population?
F.	What is the capacity for youth offender institutions and what is the actual population?
G.	What is the capacity for women's prisons and what is the actual population?
H.	How many prisoners are in private prisons, if they exist?

6	Profile of prison population
A.	What is the percentage of prisoners on remand/awaiting trial? (Figures for the last 3 years)
B.	What is the percentage of those sentenced to less than 2 years? (Figures for the last 3 years)
C.	What is the percentage of those sentenced to more than 10 years? (Figures for the last 3 years)
D.	What percentage of the prison population is serving a life sentence? (Figures for the last 3 years)
F.	That is the percentage of sentenced women and women with accompanying children? (Figures for the last 3 years)

G. What is the percentage of minors / juveniles (under 18)? (Figures for the last 3 years)	
H. What is the percentage of foreign nationals and members of minority groups? What are the figures for the last 3 years?	
I. What is the percentage of those convicted of drug related offences?	
I.1 How many for production (if such information is available)	
I.2 Is there a distinction in the law between different types of drug distribution? If so, how many for low-level distribution (if such information is available)	
I.3 How many for consumption-related acts (if such information is available)	
I.4 How many for trafficking (if such information is available)	
J. What is the percentage of prisoners diagnosed as mentally ill?	
K. What percentage of the prison population is considered to be 'dangerous' (i.e. measured in terms of sentence and categorization)?	
L. Describe concisely, what is the general procedure applied by your country in case of detection, prosecution and conviction of an individual for the case of drug trafficking and low level drug distribution.	

7.	Legislation: overview
A. What are the minimum and maximum prison terms in the Criminal/Penal Code ? Are there mandatory maximum penalties ? How is the judge guided in determining the applicable penalties, e.g. the criminal procedure code, sentencing guidelines, precedent? Does the judge have discretion in whether to impose imprisonment or an alternative?	
B. Are there alternatives available ? What is the upper limit of prison sentences to which they may or should be used as alternatives? What kinds of alternatives exist in legislation?	
C. What are the rules for the classification of prisoners ? Do all prisoners undergo a risk assessment to determine the prisons to which they will be allocated, e.g. high security, medium security etc.?	
D. Does the death sentence exist? Which crimes carry the death sentence?	
E. Does the Prison Act/Criminal Executive Code/Penal Enforcement Code provide for temporary and early conditional release schemes from prisons? What are the rules? Is	

conditional release discretionary or mandatory?	
F. Who is placed in open prisons ? Are some prisoners convicted of minor offences housed in open prisons? Which ones? What are the rules for transfer to open prisons from closed prisons?	

8.	Legal reform
A. When were the Criminal/Penal and Criminal/Penal Procedure Codes last reviewed? Did the review include, for example: <input type="checkbox"/> A rationalization of sentencing , including decriminalization of certain offences and reducing sentences for others <input type="checkbox"/> Increasing possibilities for alternatives to prison. What changes were made, if any?	
B. When was the Prison Act/Criminal Executive Code/Penal Enforcement Code last reviewed? What changes were introduced, if any? For example, did the review increase prisoners' rights, improve measures addressing the social reintegration needs of offenders, increase possibilities for temporary and early release, transfers to open prisons?	
C. Is there a law commission or law review body that is considering the criminal/penal statutes? What laws are currently under review? What are the changes being considered?	