

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY MAURITIUS**

ARTICLE 12 UNCAC

PRIVATE SECTOR AND PUBLIC-PRIVATE PARTNERSHIPS

MAURITIUS (SECOND MEETING)

Article 12: Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

1.1 The Prevention of Corruption Act 2002 and the Private Sector

The offences under the Prevention of Corruption Act 2002 as amended do cover acts of corruption with regards to a public official and the private sector.

With regards to the private sector, If a Principal (includes an employer, a beneficiary under a trust, a person beneficially interested in the succession of a person, and, in the case of a person serving in or under a public body, the public body) has adopted a policy and has informed inform staff that they should not solicit from any other person a gratification in the execution of their duties, and the principal comes to know that a breach of this policy has been committed, he may refer the case to the ICAC.

1.2 The Financial Reporting Act

As regards institutional and regulatory framework for accounting and auditing practices, the "**Financial Reporting Act**" has established :

- i. The **Financial Reporting Council (FRC)** which is an independent regulator responsible for broad oversight of the process for setting accounting, auditing and corporate governance standards and codes as well as monitoring and developing the quality and integrity of financial reporting and disclosure of public interest entities (PIEs), of corporate governance and audit in Mauritius.
- ii. The **Mauritius Institute of Professional Accountants (MIPA)** which regulates the accountancy profession in Mauritius;
- iii. The **National Committee on Corporate Governance** of Mauritius (NCCG) which is the national coordinating body for all matters pertaining to corporate governance.
- iv. The **Mauritius Institute of Directors (MIoD)** is responsible for promoting the highest standards of corporate governance, and of business and ethical conduct of directors.

1.3 The Companies Act 2001

One of the main features of the Companies Act 2001 is the mandatory use of International Accounting Standards for all big public and private companies. Private companies are regulated by the Company's Act 2001.

1.4 Disclosure of interest under the Company Act 2001

Disclosure of interest under the Company Act 2001 is described under section 148 as follows:

- (1) A director of a company shall, forthwith after becoming aware of the fact that he is interested in a transaction or proposed transaction with the company, cause to be entered

in the interests register where it has one, and, where the company has more than one director, disclose to the Board of the company –

(a) where the monetary value of the director's interest is able to be quantified, the nature and monetary value of that interest; or

(b) where the monetary value of the director's interest cannot be quantified, the nature and extent of that interest.

(2) A director of a company shall not be required to comply with subsection (1) where –

(a) the transaction or proposed transaction is between the director and the company; and

(b) the transaction or proposed transaction is or is to be entered into in the ordinary course of the company's business and on usual terms and conditions.

(3) For the purposes of subsection (1), a general notice entered in the interests register or disclosed to the Board to the effect that a director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction.

(4) A failure by a director to comply with subsection (1) shall not affect the validity of a transaction entered into by the company or the director.

2. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

(c) The recording of non-existent expenditure;

(d) The entry of liabilities with incorrect identification of their objects;

(e) The use of false documents; and

(f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

1.1 The Financial Reporting Council (FRC)

The FRC is the regulator responsible for broad oversight of the process for setting accounting, auditing and corporate governance standards and codes as well as monitoring and developing the quality and integrity of financial reporting and disclosure of public interest entities (PIEs), of corporate governance and audit in Mauritius.

The objectives of the Council are to-

- (a) promote the provision of high quality reporting of financial and non-financial information by public interest entities;
- (b) promote the highest standards among licensed auditors;
- (c) enhance the credibility of financial reporting; and
- (d) improve the quality of accountancy and audit services.

Compliance by public interest entities

Where any public interest entity is required to prepare any financial statement or report under any enactment, it shall ensure that the financial statement or report is in compliance with the financial reporting requirements of any other relevant enactment, the financial reporting and accounting standards issued by the Council under section 72, regulations made under this Act, and the rules of the Council.

1.2 The Company Act 2001

Under the company Act 2002, companies have to submit audited reports annually. Part XIV of the Company's Act 2001 deals with Accounting Records and Audit of registered companies.