



**Conference of the States Parties  
to the United Nations  
Convention against Corruption**

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**Review of the implementation of the United Nations  
Convention against Corruption**

**Self-assessment of the implementation of the United Nations  
Convention against Corruption**

**Report by the Secretariat**

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\* CAC/COSP/2008/1.



## **I. Introduction**

### **A. Legislative framework**

1. The Conference of the States Parties to the United Nations Convention against Corruption was established in accordance with article 63 of the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote the review of its implementation, focusing on periodic reviews of the implementation of the Convention and making recommendations to improve its implementation (art. 63, paras. 1 and 4 (e) and (f)).
2. To perform its functions, the Conference must acquire knowledge of the measures taken by States parties in implementing the Convention and of the difficulties they have encountered in doing so, through information provided by them (art. 63, para. 5).
3. Each State party must provide the Conference with information on its programmes, plans, practices and legislative and administrative measures to implement the Convention (art. 63, para. 6).
4. The first session of the Conference was held from 10 to 14 December 2006 in Jordan, one year after the Convention had entered into force on 14 December 2005, in accordance with article 63, paragraph 2, of the Convention.

### **B. Mandate of the Conference of the States Parties**

5. In its resolution 1/2, the Conference (a) recognized the importance of gathering information on the implementation of the Convention; (b) decided that a self-assessment checklist should be used as a tool to facilitate the provision of information on implementation of the Convention; (c) requested the Secretariat to finalize the self-assessment checklist no later than two months after the conclusion of its first session, in consultation with and reflecting input from States parties and signatories; (d) requested the Secretariat to distribute the self-assessment checklist to States parties and signatories as soon as possible to begin the process of information-gathering, urging States parties, and inviting signatories, to complete and return the checklist to the Secretariat within the deadline identified by it; and (e) requested the Secretariat to collate and analyse the information provided by States parties and signatories through the self-assessment and to share that information and analysis with the Conference at its second session.
6. At its meeting held in Vienna from 29 to 31 August 2007, the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption reiterated the call for the Secretariat to present to the Conference at its second session the analysis of information received through the self-assessment checklist (CAC/COSP/2008/3, para. 51).

### **C. Chronology of the reporting process**

7. On 16 January 2007, the Secretariat sent to the States parties and signatories to the Convention a note verbale submitting a draft self-assessment checklist for their input.

8. Between 16 January and 27 February 2007, comments were received from 18 States parties,<sup>1</sup> 4 signatories<sup>2</sup> and 3 international organizations.<sup>3</sup> Transparency International, a non-governmental organization, also submitted comments to the Secretariat.

9. On 27 February 2007, the final text of the checklist, reflecting the input received from States and international organizations, was circulated by the Secretariat for information.

10. Between February and April 2007, the Secretariat began the development of a basic survey software package, which incorporated the self-assessment checklist. For each provision to be reviewed, the software package offered clickable links to relevant reference material and to a summary of the main requirements against which compliance could be assessed. The development of such an innovative information-gathering tool was driven by the need: (a) to alleviate the long-lamented questionnaire fatigue, thus facilitating national authorities' fulfilment of the reporting obligation; and (b) to facilitate the Secretariat's analysis of information, thanks to the ability of the software to generate a variety of statistical data.

11. From 9 to 11 March 2007, a group of experts met in Vancouver, Canada, to review and validate the above approach.

12. On 15 June 2007, the Secretariat distributed a CD-ROM containing the software to States parties and signatories.

13. On 30 June 2007, a computer-based application was made available for downloading from the United Nations Office on Drugs and Crime website (<http://www.unodc.org>).

14. As at 30 November 2007, 51 self-assessment reports had been received by the Secretariat, from 44 out of 104 States parties and 7 signatories.

### **D. Assistance provided by the Secretariat to facilitate the fulfilment of reporting obligations**

15. Between 15 June and 30 November 2007, over 350 follow-up telephone calls were made and 250 e-mail messages were sent to approximately 100 permanent missions or capital cities of States parties and signatories to offer assistance in installing and operating the software.

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<sup>1</sup> Argentina, Brazil, Canada, Croatia, Dominican Republic, Egypt, Finland, France, Guatemala, Indonesia, Latvia, Netherlands, Nicaragua, Norway, Peru, Russian Federation, South Africa and United States of America. Comments by Romania were received on 2 March 2007.

<sup>2</sup> Germany, Greece, Japan and Venezuela (Bolivarian Republic of).

<sup>3</sup> Group of States against Corruption (GRECO) of the Council of Europe, International Monetary Fund and Organization for Economic Cooperation and Development.

16. From 27 to 31 August and from 1 to 5 October 2007, a “one-stop-shop”, equipped with three computer work stations and support personnel, was made available to delegations attending the three working groups established by the Conference<sup>4</sup> to help familiarize them with the software or to complete the responses of their countries. Eight Vienna-based permanent missions accepted the invitation of the Secretariat to have the software installed at their premises. The most frequent positive and negative comments on the software are shown in box 1.

Box 1

**Most frequent positive and negative comments on the self-assessment software**

<b>Three most frequent positive comments on the software</b>	<b>Three most frequent negative comments on the software or reasons for not using it</b>
1. Easy to use, pleasant 2. Short questions asked and basic answers allowed 3. Self-assessment report easy to submit	1. Technical problems to download it 2. Lack of information and coordination between Vienna-based permanent mission and capital city 3. Difficulties in merging different segments of the report; no focal points known or determined

17. Details on the assistance provided by the Secretariat to States parties and signatories in completing the self-assessment are as follows:

(a) A total of 58 States parties attended at least one of the three Working Groups;

(b) Approximately 40 States parties availed themselves of the services offered at the “one-stop-shop”;

(c) The following 16 States parties were assisted by the Secretariat, at the “one-stop-shop” or otherwise, in completing or converting self-assessment reports into the proper format: Algeria, Austria, Bolivia, El Salvador, Indonesia, Jordan, Namibia, Nigeria, Norway, Paraguay, Philippines, Romania, Slovakia, Sweden, United Republic of Tanzania and United States of America;

(d) The following States completed the self-assessment checklist through the computer-based application without requesting the assistance of the Secretariat: Argentina, Belarus, Brazil, Burkina Faso, Canada, Colombia, Costa Rica, Croatia, Dominican Republic, France, Latvia, Lithuania, Peru, Poland, Portugal, Russian Federation, the former Yugoslav Republic of Macedonia, United Kingdom of Great

<sup>4</sup> The Open-ended Intergovernmental Working Group on Asset Recovery (Vienna, 27 and 28 August 2007), the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption (Vienna, 29-31 August 2007) and the Open-ended Intergovernmental Working Group on Technical Assistance (Vienna, 1 and 2 October 2007). Recognizing the proximity in time and the fact that the composition of most of the delegations was the same, the services of the “one-stop-shop” were also offered during the Open-ended Interim Working Group of Government Experts on Technical Assistance established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (Vienna, 3-5 October 2007).

Britain and Northern Ireland and Uruguay. The following signatories did so: Bhutan, Czech Republic, Germany, Greece and Switzerland;

(e) The following States reported that they did not use the software owing to insurmountable technological problems in installing or operating it: Bangladesh, Chile, Finland, Netherlands, Kyrgyzstan, Mexico, Spain and Turkey. The following signatories reported not using the software: Brunei Darussalam and Italy;

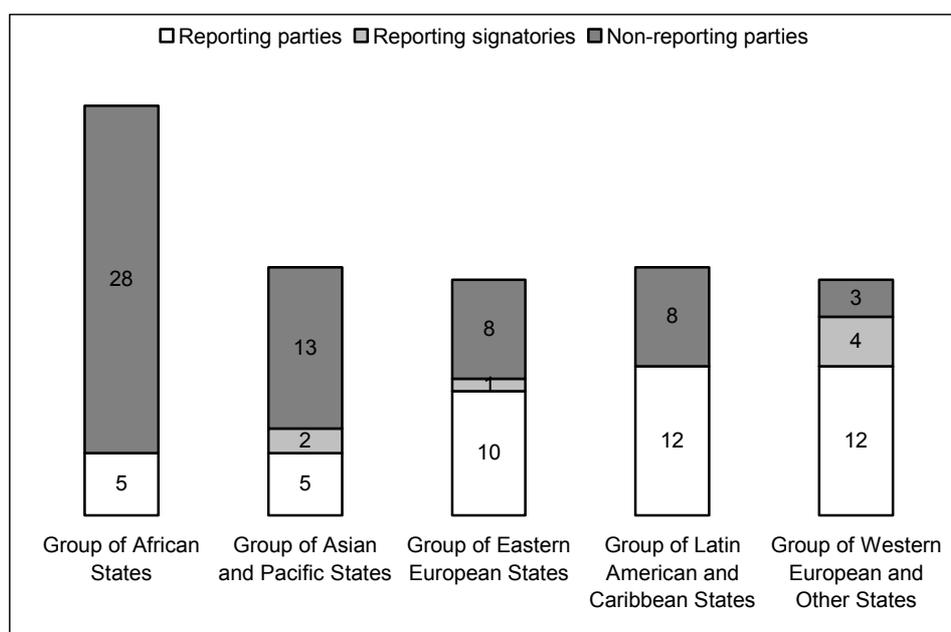
(f) The total number of States parties that did not submit reports was 60.

## E. Summary of self-assessment reports submitted as at 30 November 2007

18. Self-assessment reports were received from 51 Member States, of which 44 were parties to the Convention, giving a 42 per cent response rate. Details of reporting by region are given in figure I and in the subsequent paragraphs of the present section.

Figure I

### Reporting by States parties and signatories to the Convention, by region



#### 1. Group of African States

19. The following five States parties from the Group of African States reported on their implementation of the Convention: Algeria, Burkina Faso, Namibia, Nigeria and United Republic of Tanzania. The following 28 States parties did not do so: Angola, Benin, Burundi, Cameroon, Central African Republic, Democratic Republic of the Congo, Djibouti, Egypt, Gabon, Ghana, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mauritius, Morocco,

Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Togo, Uganda and Zimbabwe.

## **2. Group of Asian and Pacific States**

20. The following five States parties from the Group of Asian and Pacific States reported on their implementation of the Convention: Bangladesh, Indonesia, Jordan, Kyrgyzstan and Philippines. The following 13 States parties did not do so: Cambodia, China, Kuwait, Maldives, Mongolia, Pakistan, Papua New Guinea, Qatar, Sri Lanka, Tajikistan, Turkmenistan, United Arab Emirates and Yemen. Two signatories reported: Bhutan and Brunei Darussalam.

## **3. Group of Eastern European States**

21. The following 10 States parties from the Group of Eastern European States submitted a self-assessment report: Belarus, Croatia, Latvia, Lithuania, Montenegro, Poland, Romania, Russian Federation, Slovakia and the former Yugoslav Republic of Macedonia. The following eight States parties did not do so: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Hungary, Moldova and Serbia. One signatory, the Czech Republic, also reported.

## **4. Group of Latin American and Caribbean States**

22. The following 12 States parties from the Group of Latin American and Caribbean States submitted self-assessment reports: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Mexico, Paraguay, Peru and Uruguay. The following eight States parties did not do so: Antigua and Barbuda, Cuba, Ecuador, Guatemala, Honduras, Nicaragua, Panama and Trinidad and Tobago.

## **5. Group of Western European and Other States**

23. The following 12 States parties from the Group of Western European and Other States reported on their implementation of the Convention: Austria, Canada, Finland, France, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, the United Kingdom and the United States. The following three States parties did not do so: Australia, Denmark and Luxemburg. Four signatories submitted reports: Germany, Greece, Italy and Switzerland.

## **F. Scope and structure of the report**

24. The present analytical report presents information on the efforts of the Secretariat to explore innovative means to collect and present information. It contains a summary of replies and a first analysis of States' efforts to implement selected articles of the Convention. The structure of the report follows the guidance received from the Conference and from States during the consultation process described above in relation to: (a) the selection of provisions to be reviewed; (b) the formulation of questions to elicit information; and (c) the distinction between mandatory and optional questions. As a result, the report contains information on the implementation of 15 articles of the Convention in the following thematic areas:

(a) prevention;<sup>5</sup> (b) criminalization and law enforcement;<sup>6</sup> (c) international cooperation;<sup>7</sup> and (d) asset recovery.<sup>8</sup>

25. For each selected provision, information was elicited by asking States whether they had adopted the measures required by the Convention. The available answers were (a) yes; (b) yes, in part; and (c) no. In case of full implementation (“yes”), and in order to simplify the reporting exercise, States were requested to cite, but not to provide copies of, relevant legislative information. Although optional, some 50 per cent of the reporting States excerpted or annexed copies of their legislation. An analysis of such legislation has been reflected in the present report to the extent possible. To substantiate reported implementation (“yes”), States were requested to provide examples of successful application of the measures cited or quoted. The

<sup>5</sup> Articles 5, paragraph 1 (policies to prevent corruption), 6, paragraphs 1 and 2 (anti-corruption body or bodies; and independent status, resources and trained staff for that body or bodies) and 9, paragraphs 1 to 3 (systems of procurement designed to prevent corruption; establishment of conditions for participation in public procurement; criteria for public procurement decisions; system of domestic review of public procurement decisions; measures regarding public procurement personnel; transparency and accountability in public finances; timely reporting on revenue and expenditures; accounting and auditing standards; systems of risk management and internal control; corrective action upon failure to comply; and prevention of falsification of public expenditure records).

<sup>6</sup> Articles 15 (active and passive bribery of a national public official), 16 (active and passive bribery of a foreign public official or an official of a public international organization), 17 (embezzlement, misappropriation or other diversion of property by a public official), 23 (criminalization of conversion or transfer of property proceeds of crime; criminalization of acquisition, possession or use of property proceeds of crime; predicate offence in the laundering of proceeds of crime; and notification obligation) and 25 (criminalization of use of inducement, threats or force to interfere with witnesses or officials; and criminalization of interference with actions of judicial or law enforcement officials).

<sup>7</sup> Articles 44, subparagraph 6 (a) (taking the Convention as the legal basis for cooperation on extradition) and 46, paragraph 13 (designation of a central authority to receive requests for mutual legal assistance and either execute them or transmit them for execution).

<sup>8</sup> Articles 52 (verification of identity and enhanced scrutiny of customers of financial institutions; issuance of advisories to financial institutions; notifying financial institutions of identity of account holders for enhanced scrutiny; implementation of measures to require financial institutions to maintain adequate records; prevention of establishment of banks having no physical presence or affiliation to a regulated financial group; establishment of financial disclosure systems for public officials; and requiring public officials to report foreign financial accounts), 53 (institution by a State party of measures to permit another State party to initiate civil action in its courts; institution by a State party of measures to permit its courts to order payment of compensation or damages; and institution by a State party of measures to permit its courts or competent authorities to recognize another State party’s claim of legitimate ownership of property proceeds of crime), 54 (institution by a State party of measures to permit its competent authorities to give effect to orders of confiscation issued by courts of another State party; confiscation of property of foreign origin; confiscation without a criminal conviction of property acquired through corruption; freezing or seizure of property upon freezing or seizure order; freezing or seizure of property upon request providing sufficient grounds and preserving property for confiscation), 55, paragraphs 1 to 3 (submission of request for order of confiscation to competent authorities; identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation; and contents of request for order of confiscation), and 57 (disposal of confiscated property; return of confiscated property upon request by another State party; return of property confiscated in accordance with article 55 of the Convention; deduction of expenses incurred in return or disposal of confiscated property; and conclusion of agreements on final disposal of confiscated property).

optional nature of this question resulted in almost 50 per cent of the reporting States providing such examples.

26. In case of partial compliance or non-compliance (“yes, in part” or “no”), States were requested to identify the type of technical assistance that, if available, would facilitate the adoption of the measures prescribed by the Convention. An addendum to the present report (CAC/COSP/2008/2/Add.1) offers a detailed analysis of reported technical assistance needs.

27. In order to render the present analytical report as reader-friendly as possible, thus enabling the Conference to identify implementation gaps promptly and make informed recommendations, an innovative approach has been adopted. The analysis of implementation of each of the 15 articles begins with a visual representation of the global situation. This is followed by an overview of the status of implementation at the regional level and an analysis of the relevant information. Recognizing that the quality of the present report is, to a large extent, a reflection of the quality of the information provided to the Secretariat, the analysis of compliance with each article is complemented, where appropriate, by text boxes where examples of promising implementation and reporting practices are described.

28. The combination of visual features and narrative analysis in the present report has been made possible by the innovative information-gathering tool (see para. 10 above). The statistical function of the software package has greatly facilitated the analytical work of the Secretariat and it is hoped that it will provide the Conference with readily actionable information.

29. The present report does not purport to be comprehensive or complete, as it reflects the situation in only 42 per cent of the States parties to the Convention. Furthermore, it does not imply certification of the veracity or accuracy of information provided by reporting States parties.

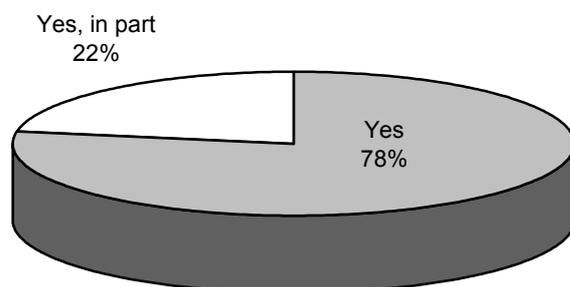
## **II. Analysis of the implementation of selected articles of the Convention**

### **A. Preventive measures (chapter II of the Convention)**

#### **1. Preventive anti-corruption policies and practices (article 5, paragraph 1)**

30. The global implementation of article 5 of the Convention is illustrated in figure II. Details of implementation of the article by region are given in the subsequent paragraphs of the present section.

Figure II  
Global implementation of article 5 (reporting parties)



**(a) Group of African States**

31. Out of the five reporting States parties, Algeria, Namibia, Nigeria and the United Republic of Tanzania cited the adoption of measures in compliance with Convention to establish anti-corruption policies. Burkina Faso reported partial implementation of such measures and highlighted the importance of involving civil society in the development of anti-corruption policies. While Algeria, Burkina Faso and Nigeria presented information on their corruption prevention policies, only Nigeria provided examples substantiating their successful implementation (an optional reporting requirement).

**(b) Group of Asian and Pacific States**

32. Out of the five reporting parties, Indonesia, Kyrgyzstan and the Philippines indicated implementation of the provision under review, while Bangladesh and Jordan reported partial compliance. Indonesia cited legislation by which it had established the Commission for Eradicating Corruption. Moreover, pursuant to the Presidential Instruction on Acceleration in Eradicating Corruption, Indonesia reported that it had adopted a national action plan to prevent and eradicate corruption. Kyrgyzstan reported that by its Presidential Decree No. 251 (2005), an anti-corruption strategy had been adopted. The strategy was an integral part of a larger country development strategy for the period 2006-2010. The national anti-corruption authority of Kyrgyzstan was in the process of launching an action plan for the period 2008-2010 to implement the corruption prevention strategy. Reporting on efforts made by the new leadership to reform the public and private sectors, Bangladesh indicated that a national integrity strategy was being formulated and that its adoption was expected by the end of 2008. Fulfilling an optional reporting requirement, Bangladesh also mentioned that additional measures to prevent corruption were under consideration.

**(c) Group of Eastern European States**

33. Out of the 10 reporting parties, 8 reported implementation of the provision under review, while Montenegro and the Russian Federation indicated partial implementation. Montenegro presented information on recent initiatives, including its Programme against Corruption and Organized Crime (2005) and its Action Plan

for Implementation of the Programme against Corruption and Organized Crime (2006). Nevertheless, it indicated that qualified technical assistance would be required to reach full compliance with the Convention. While reporting partial adoption of anti-corruption policies, the Russian Federation cited no implementing measures (an obligatory reporting requirement). All States reporting full compliance with the article under review provided detailed accounts of implementation efforts, including citations and excerpts of relevant laws. Belarus presented information on its National Anti-Corruption Plan 2007-2010. Latvia reported that its 2002 Law on Corruption Prevention and Combating Bureau provided for the development of an anti-corruption strategy and a national anti-corruption programme with the participation of civil society, thus reflecting the principles of equality, transparency and openness. Lithuania referred to its 2002 National Anti-Corruption Programme. Poland and Romania provided copies of their anti-corruption strategy. Romania referred in particular to its National Anti-Corruption Strategy 2005-2007 and to the ensuing action plan for implementation adopted in 2005. In Romania, an assessment of results achieved against goals and timelines indicated by the plan of action was conducted on an annual basis. Following such an assessment, the Strategy was subject to review. In Slovakia, the Government approved the National Programme on the Fight against Corruption in 2000. The Programme was monitored and updated on an annual basis. To ensure full compliance with the article under review, Slovakia reported that the Criminal Code and the Criminal Procedure Code had been amended following the ratification of the Convention. Examples of positive implementation of article 5, paragraph 1, by Poland and Romania are described in box 2.

Box 2

**Examples of positive experience in implementing anti-corruption policies: Poland and Romania**

**Anti-corruption policies (art. 5, para. 1)**

- **Poland.** The “Anti-Corruption Strategy” document is updated periodically. The various institutions responsible for its implementation submit periodic progress reports to the Council of Ministers. The Ministry of the Interior and Administration, in cooperation with other institutions, has set up a website (<http://www.antykorupcja.gov.pl>) to inform the public of the Government’s anti-corruption efforts and to disseminate information on national and international good practices to fight corruption. Through the website, the public can also report cases of corruption anonymously to competent authorities.
- **Romania.** In March 2006, the General Anti-Corruption Directorate of the Ministry of Administration and the Interior established a “green line” for citizens to report cases of corruption perpetrated by the Ministry’s personnel. In 2006, the Ministry of European Integration implemented a national anti-corruption campaign targeting both civil servants and citizens. The main vehicle of the campaign was a website, visited by approximately 190 people per day. Six months after the end of the campaign, 180 people still visit the website every week. The random distribution of cases to judges using information technology has been fully functional since March 2005. This

represents an efficient tool to prevent corruption, while at the same time increasing trust in the judiciary.

**(d) Group of Latin American and Caribbean States**

34. Out of the 12 reporting parties, 8 indicated that effective anti-corruption policies had been implemented, thus reporting full compliance with the provision under review. Argentina, Brazil, El Salvador and Peru indicated partial compliance. The eight States that reported compliance presented information on specific laws to prevent corruption. Bolivia, Chile, the Dominican Republic, Mexico and Paraguay described their national anti-corruption plans or programmes. Argentina reported on specific laws to prevent corruption and provided an extensive account of anti-corruption policies, including the drafting of more specific legislation and of an action plan for the implementation of the recommendations made by an expert committee established in accordance with the follow-up mechanism for the implementation of the Inter-American Convention against Corruption. Argentina also mentioned plans to strengthen its anti-corruption agency, including an electronic learning programme for its staff. Brazil reported a number of measures to prevent corruption and promote the participation of civil society, including measures to disseminate information on federal expenditures and public procurement, to enhance fiscal responsibility and to introduce educational programmes. Brazil added that such measures would benefit from the development of an action plan for their implementation. El Salvador cited relevant legislation, but indicated that an action plan for its implementation was necessary in order to strengthen transparency and participation by civil society. Peru provided an extensive account of legislative measures that had been adopted and institutions that had been established to prevent corruption. Peru also reported on a national anti-corruption plan that had been approved by the Council of Ministers and was about to be adopted. Examples of positive implementation of article 5, paragraph 1, by Argentina and Bolivia are described in box 3.

Box 3

**Examples of positive experience in implementing anti-corruption policies:  
Argentina and Bolivia**

**Anti-corruption policies (art. 5, para. 1)**

- **Argentina.** As at December 2006, 733 cases of possible conflict of interest had been reported to the anti-corruption agency, which confirmed the conflict of interest in 64 cases and issued preventive recommendations in another 147 cases. An important factor for the successful analysis of such cases was the establishment of a computer-based system for the declaration of assets, which facilitated the comparison of information available from other public registries with a view to detecting conflicts of interest and incompatibilities.
- **Bolivia.** The national anti-corruption plan (which lasts until 2009) is a joint initiative of the national anti-corruption agency and other relevant federal institutions. It was formulated with the active participation of civil society and public servants.

**(e) Group of Western European and Other States**

35. Out of the 12 reporting parties, all except Turkey (reporting partial implementation) indicated that effective anti-corruption policies had been implemented. Several States that reported compliance, such as Austria, Canada and France, presented information on their specific laws to prevent corruption. Others, such as Finland, the Netherlands, Norway, Portugal, Sweden, the United Kingdom and the United States, reported that anti-corruption policies were an integral part of broader social policies for transparency, accountability and integrity. The United States provided a detailed account of federal laws to prevent corruption that provided for the participation of society, the proper management of public affairs and public property, integrity, transparency and accountability, thus embodying the terms and spirit of the article under review. Examples of positive implementation of article 5, paragraph 1, by Finland, Sweden and the United Kingdom are described in box 4.

Box 4

**Examples of positive experience in implementing anti-corruption policies:  
Finland, Sweden and the United Kingdom**

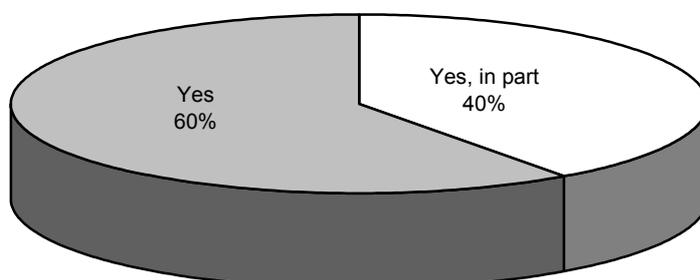
**Anti-corruption policies (art. 5, para. 1)**

- **Finland.** Transparency of public decision-making and public availability of records promote a culture of integrity. Individuals and associations can consult public administration records as they please, thus controlling and influencing the exercise of official authority, monitoring the use of public finances, freely forming their opinions, asserting their rights and safeguarding their interests.
- **Sweden.** The Anti-Corruption Institute was established in 1923. The Institute is a non-governmental organization that issues guidelines and provides advice to corporations and private persons on how to curb corruption.
- **United Kingdom.** The Assessment and Development Centre is a programme that officers must complete successfully to achieve promotion to senior management positions in the Foreign Commonwealth Office. The Centre is a demanding mixture of group exercises, individual interviews and written work held over a period of two days. One particular role-playing scenario from a recent session at the Centre related to the creation of a unit to counter corruption, including handling of foreign bribery allegations. The Police Fraud Squad has developed training, which is now being rolled out across the United Kingdom Police Service. The Squad is regularly called upon to advise other forces in relation to corruption matters.

**2. Preventive anti-corruption body or bodies (article 6)**

36. The global implementation of article 6 of the Convention is illustrated in figure III. Details of implementation of the article by region are given in the subsequent paragraphs of the present section.

Figure III  
Global implementation of article 6 (reporting parties)



**(a) Group of African States**

37. Algeria, Burkina Faso, Namibia and Nigeria indicated that measures had been adopted in compliance with the Convention to ensure the existence of corruption prevention bodies. The United Republic of Tanzania, reporting partial implementation, stated that while its Preventing and Combating of Corruption Act (2007) provided for the independence of the national anti-corruption authority (the Preventing and Combating of Corruption Bureau), lack of resources and of training programmes for staff hampered the effectiveness of the body. Algeria highlighted legislative measures to encourage the participation of civil society in the prevention of corruption and reported the creation of a prevention and awareness-raising directorate within the national anti-corruption body. Algeria also provided information on measures to ensure independence and adequacy of human and financial resources (art. 6, para. 2) of the national anti-corruption authority. These included a high level of education and training for the staff and freedom from pressure, intimidation, threats or attacks in the exercise of their functions. Burkina Faso reported that the current procedure, whereby the national anti-corruption authority would submit alleged cases of corruption to the Prime Minister for action, was being reviewed to allow direct submission of such cases to judicial authorities. In application of article 6, paragraph 1, of the Convention, Nigeria reported the establishment of the Independent Corrupt Practices and Other Related Offences Commission, the Economic and Financial Crimes Commission, the Bureau of Public Procurement (in the context of the Extractive Industry Transparency Initiative Act 2007) and the Technical Unit on Governance and Anti-Corruption. Reporting on the independence of such bodies (art. 6, para. 2), Nigeria indicated that the chairmen and the members of both the Independent Corrupt Practices and Other Related Offences Commission and the Economic and Financial Crimes Commission were appointed by the President subject to confirmation by the Senate. An example of positive implementation of article 6 by Nigeria is described in box 5.

Box 5

**Example of positive experience in establishing an anti-corruption body or bodies:  
Nigeria**

**Anti-corruption body or bodies (art. 6)**

- **Nigeria.** Both of Nigeria's anti-corruption bodies have used their independent status to investigate and prosecute top ranking officials. Serving ministers, state governors, the President of the Senate and some judges have been forced out of office. A number of high profile individuals are being prosecuted for serious corruption, abuse of power and criminal activities.

**(b) Group of Asian and Pacific States**

38. Indonesia, Jordan and the Philippines indicated that measures had been adopted in compliance with the Convention to ensure the existence of bodies that prevent corruption. Bangladesh and Kyrgyzstan reported partial implementation of article 6 of the Convention. In particular, while the 2004 Anti-Corruption Commission Act of Bangladesh provided for the independence of the Anti-Corruption Bureau, under the previous leadership the influence of the executive branch had hindered the independent performance of the functions of the Bureau. In implementation of article 6, paragraph 1, Bangladesh indicated that the Anti-Corruption Commission, established by the 2004 Anti-Corruption Commission Act, was entrusted, inter alia, with the investigation of offences and allegations of corruption on its own initiative. Kyrgyzstan reported the establishment of the National Agency for Preventing Corruption by Presidential Decree (2005), stressing that the Agency was responsible for the development of national corruption prevention policies. However, Kyrgyzstan added that no measures necessary to ensure independence and adequacy of human and financial resources of the Agency were in place. The Philippines indicated that the Office of the Ombudsman, established under the 1987 Constitution, was also responsible for preventing corruption and conducting awareness-raising activities. An example of positive implementation of article 6 by Bangladesh is described in box 6.

Box 6

**Example of positive experience in establishing an anti-corruption body or bodies:  
Bangladesh**

**Anti-corruption body or bodies (art. 6)**

- **Bangladesh.** At present, 60 task forces are operating. So far, the special courts have handed down verdicts on 44 cases. A total number of 131 graft cases are under trial and another 285 cases under are investigation.

**(c) Group of Eastern European States**

39. All reporting parties except Montenegro, Romania and the Russian Federation cited measures to establish independent, adequately resourced and staffed anti-corruption bodies. The Russian Federation, reporting partial compliance with article 6, stated that no specific authority was in charge of corruption prevention activities. However, in accordance with Presidential Decree No. 129 (2007), an

anti-corruption agency would soon be established. Fulfilling an optional reporting element, the Russian Federation noted that an inter-agency working group had been set up to promote the implementation of the entire Convention. To that end, necessary amendments to the Criminal Code and the Criminal Procedure Code and measures for asset declaration by public officials were being drafted. Montenegro and Romania reported the establishment, respectively, of the Directorate for Anti-Corruption and the Council for the Coordination of the Implementation of the National Anti-Corruption Strategy 2005-2007. Both States indicated partial implementation of measures providing for independence and adequacy of human and financial resources of such bodies. Reportedly, the Directorate for Anti-Corruption of Montenegro operated with limited funding and personnel under the supervision of the Ministry of Finance. Romania reported that the political independence of the Council for the Coordination of the Implementation of the National Anti-Corruption Strategy 2005-2007 should be ensured by its inter-ministerial nature and by the obligation to invite representatives of non-governmental organizations and the media to its sessions. Reporting on the implementation of article 6, Belarus stated that a range of authorities rather than one single agency were in charge of anti-corruption activities. By Presidential Decree No. 220 (2007), measures had been introduced to provide personnel in charge of anti-corruption activities with adequate training and other resources necessary to implement the National Anti-Corruption Plan 2007-2010. The Decree also provided for the publication in the media of progress made in implementing the Plan. Croatia provided a description of the functions, composition and training programmes for staff of the National Council for Monitoring the Implementation of the National Corruption Prevention Programme. Latvia provided a thorough account of the functions of the Corruption Prevention and Combating Bureau and of the procedures for the appointment of the Bureau's director, the training programmes for its staff, the conduct of investigations and the Bureau's financial resources. Poland indicated that the Ministry of the Interior and Administration was responsible for coordinating the National Anti-Corruption Strategy while the Central Anti-Corruption Bureau, established in 2006, was responsible for investigating and preventing corruption and conducting awareness-raising activities. The head of the Central Anti-Corruption Bureau of Poland was appointed for a four-year term, renewable only once, and could be dismissed by the Prime Minister following an opinion of the President of the Republic of Poland, the College for Special Services and a parliamentary commission with competency for special services. Detailed information on the functions of the Bureau, on its financial and operational independence and on training programmes for its staff was also provided. Slovakia presented information on the status, functions and composition of the Bureau for the Fight against Corruption, established in 2004, and of the Department for the Control and Fight against Corruption, established by Government Decree in 2007. The former Yugoslav Republic of Macedonia provided information on criteria for the selection of staff and on the financial independence of the State Commission for the Prevention of Corruption, but no substantiating example of a successful application of the reported measures was provided (an optional reporting requirement). An example of positive implementation of article 6 by Lithuania is described in box 7.

Box 7

**Example of positive experience in establishing an anti-corruption body or bodies:  
Lithuania**

**Anti-corruption body or bodies (art. 6)**

- **Lithuania.** The specialized institution responsible for fighting corruption in Lithuania is the Special Investigation Service, accountable to the President and the Parliament. The Special Investigation Service is a legal entity with financial independence. The appointment or dismissal of its director is decided by the President of the Republic of Lithuania subject to the approval of the Parliament.

**(d) Group of Latin American and Caribbean States**

40. Out of the 12 reporting parties, Colombia, Mexico and Uruguay reported full implementation of article 6 of the Convention. Chile, El Salvador and Peru reported partial compliance with the obligation to put in place measures to establish independent and adequately resourced anti-corruption authorities (art. 6, paras. 1 and 2). Argentina, Bolivia, Brazil, Costa Rica, the Dominican Republic and Paraguay indicated that anti-corruption authorities had been established, but their status was only partly consistent with the requirements of the Convention. All reporting parties cited or quoted relevant legislation. Argentina and Bolivia stated that the effectiveness of such bodies would benefit from adequate training for staff and additional financial resources. Bolivia added that, in order to ensure the independence of its anti-corruption body, legislation had been drafted to upgrade the body to ministerial level. Brazil described measures to ensure the independence and adequacy of resources of its anti-corruption authority. Chile, indicating partial compliance with article 6, reported that several authorities were responsible for preventing and combating corruption. Similarly, the Dominican Republic listed several bodies entrusted with the implementation of anti-corruption policies, including the National Anti-Corruption Department, part of the Office of the General Prosecutor, and the National Anti-Corruption Commission. The members of the National Anti-Corruption Commission, which monitored the implementation of the national anti-corruption programme, were members of the Government, the Protestant church, the business community and civil society. Such members were designated by the executive power and worked without remuneration. El Salvador reported on several bodies entrusted with the implementation of anti-corruption policies and assessed legislative measures providing for their independence as partly consistent with the requirements of the Convention. The Anti-Corruption Council of Paraguay, composed of members of the Government and civil society working without remuneration, relied, in part, on support provided through international cooperation. Peru, reporting partial compliance with article 6, described the composition and the functions of its anti-corruption agencies. The body was financially dependant on the Ministry of Justice and had limited human and financial resources. An example of positive implementation of article 6 by Peru is described in box 8.

Box 8

**Example of positive experience in establishing an anti-corruption body or bodies:  
Peru**

**Anti-corruption body or bodies (art. 6)**

- **Peru.** The National Anti-Corruption Council is chaired by a representative of the Ministry of Justice (currently the Vice-Minister of Justice). Other members include representatives of the Ministry of Education, the Ministry of Foreign Affairs, the Council of Ministers, the national police, the Bishops' Conference, non-Catholic religious groups and the financial intelligence unit. Two representatives of civil society are also members of the Council.

**(e) Group of Western European and Other States**

41. Out of the 12 reporting parties, all but Austria, Turkey and the United Kingdom indicated full implementation of article 6. Austria assessed the Federal Bureau for Internal Affairs, predominantly a law-enforcement body also responsible for preventing corruption, as partly compliant with the requirements of the Convention (art. 6, para. 1). The attributes of the Bureau were also assessed as being in partial conformity with the Convention (art. 6, para. 2). However, Austria stated that while the Bureau reported to the Federal Ministry of the Interior, no influence was exerted on the performance of its functions, rendering the Bureau independent de facto but not ex lege. Turkey assessed the attributes of its ad hoc Ministerial Committee established by the Prime Minister in March 2003 as partly compliant with the requirements of the Convention. The United Kingdom, while reporting that the Cabinet Office Corruption Committee was responsible for coordinating the implementation of anti-corruption policies, indicated that no specific measures had been adopted to grant the Committee the necessary independence, resources and trained staff (art. 6, para. 2). All the other parties that reported compliance indicated that the prevention of corruption was not restricted to a specific authority, but that a number of bodies were equally responsible in their respective areas (art. 6, para. 1). Constitutional or legislative norms provided for the necessary independence and adequate human and financial resources of all such authorities. Examples of positive implementation of article 6 by Sweden and the United States are described in box 9.

Box 9

**Examples of positive experience in establishing an anti-corruption body or bodies: Sweden and the United States**

**Anti-corruption body or bodies (art. 6)**

- **Sweden.** The Swedish system is based on the principle that every government agency is responsible for preventing corruption within its area of competence. Swedish administrative authorities, including the police and the Swedish Prosecution Authority, are independent. According to the Constitution, no public authority, not even the Parliament, may influence public officials in the performance of entrusted public functions or in the application of the law.
- **United States.** The prevention of corruption not only involves specifically targeted programmes but standardized, transparent, fair and accountable

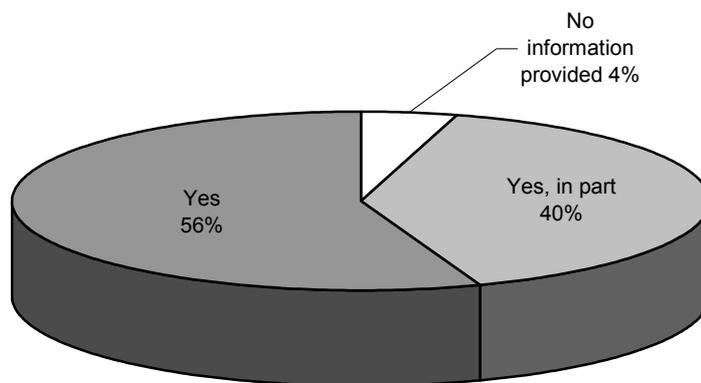
systems of governance. Therefore, the bodies involved at the federal level in the United States are numerous. The system of inspectors general within executive branch agencies demonstrates both independence and accountability. With Senate confirmation, the President appoints inspectors general in cabinet-level departments of major agencies. The inspectors can be removed only by the President.

### 3. Public procurement and management of public finances (article 9)

42. The global implementation of article 9 of the Convention is illustrated in figure IV. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure IV

#### Global implementation of article 9 (reporting parties)



#### (a) Group of African States

43. Algeria, Burkina Faso, Namibia and Nigeria indicated full compliance with article 9, while the United Republic of Tanzania reported partial compliance. Algeria reported on its Public Procurement Law (2006) and listed the institutions subject to application of that law. Nigeria mentioned the establishment of its Bureau of Public Procurement, also known as the Due Process Office, responsible for vetting and scrutinizing all major federal public procurement projects to ensure their compliance with the principles of openness, transparency, competition and appropriate cost. Algeria, Burkina Faso and Nigeria presented information on domestic measures providing for the dissemination of information related to public procurement (art. 9, subpara. 1 (a)), the establishment of conditions for participation in public procurement (art. 9, subpara. 1 (b)), criteria for public procurement decisions (art. 9, subpara. 1 (c)) and the system of domestic review of such decisions (art. 9, subpara. 1 (d)). Burkina Faso reported that the effectiveness of domestic systems for review of public procurement decisions (art. 9, subpara. 1 (d)) had resulted in judicial decisions to reassign contracts where it was found that evaluation of the bid had not been objective. The United Republic of Tanzania reported partial implementation of the provision of the Convention providing for

measures on public procurement personnel (art. 9, subpara. 1 (e)), but noted that its national Public Procurement Act (2004) did not foresee adequate training for such personnel. Reporting on measures to promote transparency and accountability in the management of public funds (art. 9, para. 2), the United Republic of Tanzania also noted the establishment of the Public Procurement Regulatory Authority. Reporting on systems of accounting and auditing standards (art. 9, subpara. 2 (c)), Nigeria indicated, as an example of effectiveness of relevant measures, that ministries, departments and agencies had been summoned by the National Assembly and requested to provide an explanation of budget-related issues. Reporting on the same systems, the United Republic of Tanzania mentioned the annual report of the Controller and Auditor General and the establishment of an audit unit within every ministerial department. Reporting on corrective action upon failure to comply with domestic measures implementing the article under review (art. 9, subpara. 2 (e)), Nigeria indicated that several cases had been referred to appropriate authorities for prosecution and that several contractors had been banned from participation in procurement for a certain number of years. Box 10 contains an example of positive implementation of article 9, subparagraph 1, by Nigeria, while box 11 contains examples of implementation of subparagraph 2 (b) of the article by Nigeria and the United Republic of Tanzania.

Box 10

**Example of positive experience in implementing systems of procurement designed to prevent corruption: Nigeria**

**Systems of procurement designed to prevent corruption (art.9, subpara. 1(a))**

- **Nigeria.** Nigeria's Procurement Act 2007 is modelled on the UNCITRAL Model Law on Procurement. About US\$3 billion has been saved from over-inflated contracts. Over 230 awarded contracts found to have fallen short compliance with due process guidelines have been cancelled. Reinstatement has been granted to 306 Nigerians who rightly won public contracts by merit. The publication of bimonthly tender journals is making contract opportunities part of the public domain.

Box 11

**Examples of positive experience in implementing measures on timely reporting on revenue and expenditures: Nigeria and the United Republic of Tanzania**

**Timely reporting on revenue and expenditures (art. 9, subpara. 2 (b))**

- **Nigeria.** Periodic reports are prepared by the Budget Office of the Federal Ministry of Finance and by the Central Bank of Nigeria.
- **United Republic of Tanzania.** The report of the Minister of Finance on "Estimates of revenue and expenditure" and a report of the Controller and Auditor General are periodically presented to the National Assembly.

**(b) Group of Asian and Pacific States**

44. Indonesia and the Philippines reported full compliance with article 9. Reporting on systems of procurement designed to prevent corruption (art. 9, subpara. 1 (a)), Indonesia noted that the number of tenders announced in the mass media had increased. Reporting on measures adopted to establish conditions for participation in public procurement (art. 9, subpara. 1 (b)), Indonesia mentioned that a number of governmental departments had adopted online bidding systems, known as “e-procurement”. Indonesia also reported that its Presidential Decree on the Guidelines for the Government’s Procurement of Goods and Services (2003), as amended in 2004, had introduced a system of domestic review of public procurement decisions (art. 9, subpara. 1 (d)) and measures regarding public procurement personnel (art. 9, subpara. 1 (e)). Reporting partial compliance with article 9, Bangladesh indicated that the Public Procurement Act had been adopted in 2006 to address the shortcomings of the 2003 Public Procurement Regulations. The Act established new conditions for participation in public procurement (art. 9, subpara. 1 (b)), including publication of biddings in at least two national daily newspapers and online bidding procedures. With regard to measures establishing criteria for public procurement decisions (art. 9, subpara. 1 (c)), the same Act established the Tender Evaluation Committee and the Central Procurement Technical Unit. However, reportedly, recent high-profile prosecutions evidenced the ineffectiveness of such bodies. Jordan reported that in order to introduce effective conditions for participation in public procurement (art. 9, subpara. 1 (b)), an electronic tendering system and adequate training for procurement personnel would be needed, while Kyrgyzstan, reporting compliance with the provision under review, highlighted that its Public Procurement Law (2004) provided for the involvement of the media and of non-governmental organizations in the process leading to the award of public contracts. Kyrgyzstan, presenting information on its public procurement law, further assessed its ability to provide for the distribution of information and the objectivity of criteria for public procurement decisions as partly compliant with the Convention (art. 9, subpara. 1 (a) and (c)). The law was regarded as fully adequate in relation to the establishment of systems to review public procurement decisions and measures for procurement personnel (art. 9, subparas. 1 (d) and (e)). Reporting partial compliance with the provision under review, Jordan indicated that it would need to adopt a standard procurement system and a plan to improve efficiency of procurement personnel. Jordan also indicated that no measures had been adopted to establish a system of domestic review of public procurement decisions (art. 9, subpara. 1 (d)). Bangladesh and Jordan regarded their measures on public procurement personnel and on the adoption of the national budget (art. 9, subparas. 1 (e) and 2 (a)), as partly compliant with the Convention. While existing legislation provided for the formulation (by the Ministry of Finance) and discussion (before the Parliament) of the annual budget, Bangladesh assessed that there was room for improvement. In the same vein, Jordan indicated that, as of 2008, a result-oriented budget system would be adopted. Kyrgyzstan, presenting information on the adequacy of measures for the adoption of the national budget, stated that it was approved by the Parliament, posted on the website of the Ministry of Finance and published in the media. The Philippines presented information on relevant domestic measures to achieve compliance with article 9, providing a considerable number of substantiating examples. Reporting on procedures for the adoption of the national budget (art. 9, subpara. 2 (a)), the Philippines referred to

relevant provisions of the 1987 Constitution. In application of article 9, subparagraph 2 (c) and (d), of the Convention, the Philippines indicated the introduction of the New Government Accounting System and the establishment of the Commission on Audit. While citing measures adopted to ensure corrective action upon failure to comply with the prescriptions of article 9 (art. 9, subpara. 2 (e)), no substantiating example of implementation of such measures was provided by the Philippines (an optional reporting requirement). Bangladesh and Kyrgyzstan described domestic measures providing for timely reporting on revenue and expenditure and assessed such measures as compliant with the Convention (art. 9, subpara. 2 (b)), while Jordan reported partial compliance. Assessing their systems of accounting, auditing standards and related oversight (art. 9, subpara. 2 (c)), Bangladesh reported compliance, Jordan indicated that relevant legislation would have to be developed, while Kyrgyzstan noted that, as a follow-up to the Presidential Decree of June 2006, such systems were being established. Jordan and Kyrgyzstan indicated partial implementation of measures to introduce systems for risk management and internal control (art. 9, subpara. 2 (d)), while Indonesia referred to its Presidential Decree on the Guidelines for the Government's Procurement of Goods and Services of 2003, as amended in 2004 (also mentioned earlier in the present paragraph), which had introduced systems of risk management and internal control. However, no substantiating examples of successful use of such systems and measures were provided (an optional reporting requirement). In relation to subparagraph 2 (e) and paragraph 3 of article 9, Jordan reported partial implementation of corrective measures upon failure to comply with the provisions of paragraph 2 of article 9 and of measures to prevent the falsification of public expenditure records, while Kyrgyzstan reported no adoption of such measures. With regard to the same systems and measures, Bangladesh provided no information (obligatory reporting requirements). In compliance with the mandatory provision of article 9, paragraph 3, the Philippines reported that various laws had established irregularity in the custody of accounting books and records as an administrative offence, sanctioned with dismissal from service and forfeiture of all benefits. Box 12 contains an example of positive implementation of article 9, subparagraph 2 (b), by the Philippines, while box 13 contains an example of implementation of paragraph 3 of the article by Indonesia.

Box 12

**Example of positive experience in implementing measures on timely reporting on revenue and expenditures: the Philippines**

**Timely reporting on revenue and expenditures (art. 9, subpara. 2 (b))**

- **The Philippines.** The President is mandated to submit to the Congress a yearly report on budgeting of expenditures and sources of financing, including receipts and other supporting documentation.

Box 13

**Example of positive experience in implementing measures to prevent falsification of public expenditure records: Indonesia****Measures to prevent falsification of public expenditure records (art. 9, para. 3)**

- **Indonesia.** In accordance with Law No. 1/2004 on the State Treasury, ministers and heads of institutions authorizing State budget expenditures must submit to the Minister of Finance a report supported by necessary documentation at the end of each fiscal year.

**(c) Group of Eastern European States**

45. Belarus, Croatia, Latvia, Lithuania, Montenegro, Poland, Slovakia and the former Yugoslav Republic of Macedonia reported full compliance with article 9. The Russian Federation indicated partial compliance by implementation of domestic measures providing for public dissemination of information on procurement procedures and contracts (art. 9, subpara. 1 (a)). Reporting on systems of procurement based on transparency, competition and objective criteria effective in preventing corruption (art. 9, subparas. 1 (a)-(e)), Belarus, Latvia, Poland, Romania and the former Yugoslav Republic of Macedonia provided a detailed description of relevant domestic measures. Belarus quoted passages of its Presidential Decree on Public Procurement (2006). However, the reported passages did not clarify whether measures providing for the advance announcement of invitations to tender and conditions for participation had been adopted, whether criteria for public procurement decisions were objective and predetermined or whether systems of review of such decisions had been established. Information on measures for public procurement personnel was not provided either. The Federal Public Procurement Law (2005) of the Russian Federation introduced an “e-procurement” system, training programmes for public procurement personnel and measures to prevent conflict of interest but, reportedly, no provision for financial disclosure systems. While reporting implementation of systems of procurement compliant with the Convention, Slovakia provided no examples to substantiate the effectiveness of such systems (an optional reporting requirement). All reporting States parties except Romania indicated that measures promoting transparency and accountability in the management of public finances in accordance with the Convention had been adopted (art. 9, subparas. 2 (a)-(e)). In that respect, Belarus stated that its national budget was prepared by the Government and presented to the President for onward submission to the Parliament. The Constitution of Belarus provided for the annual budget to be published. Belarus also provided an overview of its accounting and auditing measures, without providing information on systems of risk management and internal control. The Russian Federation noted that the national budget was regularly published in the press. Latvia, Poland and the former Yugoslav Republic of Macedonia provided a thorough account of laws regulating the adoption of the national budget and measures providing for reporting on revenues and expenditure (art 9, subparas. 2 (a) and (b)). Croatia and Poland indicated that the matter was also regulated by their constitutions. Montenegro indicated that financial reports on revenues and expenditure were available, on a monthly basis, from the website of the Ministry of Finance. Reporting on the adequacy of accounting, auditing

standards and related oversight, and of systems for risk management and internal control (art. 9, subparas. 2 (c) and (d)), Latvia and Poland provided extensive descriptions of relevant measures. Montenegro, Poland, Romania, Slovakia and the former Yugoslav Republic of Macedonia also presented information on the matter. Croatia, Latvia, Montenegro and Slovakia provided substantiating examples of successful implementation of such measures (an optional reporting requirement). Croatia, Lithuania and Slovakia cited, while Latvia, Montenegro, Poland and the former Yugoslav Republic of Macedonia described, corrective measures applicable in case of failure to comply with norms promoting transparency and accountability in the management of public finances (art. 9, subpara. 2 (e)). On the same question, Belarus, Romania and the Russian Federation provided no information (an obligatory reporting requirement). All reporting States parties except Belarus (no information provided in relation to an obligatory reporting requirement) indicated compliance with the requirement to implement measures to preserve the integrity of accounting documents to prevent their falsification (art. 9, para. 3). Croatia, Lithuania, Romania and Slovakia provided no or unrelated examples of successful implementation of such measures (an optional reporting requirement). Examples of positive implementation of provisions contained in article 9, subparagraph 1(a), by Croatia, Montenegro and Poland are described in box 14.

Box 14

**Examples of positive experience in implementing systems of procurement designed to prevent corruption: Croatia, Montenegro and Poland**

**Systems of procurement designed to prevent corruption (art. 9, subpara. 1 (a))**

- **Croatia.** According to the Public Procurement Act, public tender announcements must be published in the Public Procurement Bulletin of the Official Gazette. In 2006, there were 7,423 such announcements. In 2006, all public procurement entities were requested to register with the Public Procurement Office through its website. The first database of all entities obliged to adhere to the Public Procurement Act was set up. Registered entities must submit annual reports on their activities through the Internet.
- **Montenegro.** The website of the Commission for Control of Public Procurement Procedures (<http://www.nabavka.vlada.cg.yu>) provides information on published invitations to tender, selections of economically advantageous tenders and decisions on cancellation of public tendering.
- **Poland.** The Public Procurement Office disseminates knowledge on the correct application of the Public Procurement Law. The Office maintains an information line for legal advice on procurement procedures, issues guidelines and maintains a website where opinions, decisions of courts and arbitration panels and reports on verifications of compliance with public procurement procedures are posted.

**(d) Group of Latin American and Caribbean States.**

46. Out of the 12 reporting parties, Colombia, Costa Rica, Mexico and Uruguay reported full compliance with article 9. Chile, Colombia, Costa Rica, Mexico and

Uruguay reported on measures to establish appropriate systems of procurement (art. 9, para. 1), citing or quoting relevant legislation. The other reporting parties indicated partial or no implementation of such measures, while Paraguay did not provide information (an obligatory reporting requirement). In relation to the public distribution of information on procurement procedures (art. 9, para. 1 (a)), Argentina, Brazil, Chile, Colombia, Costa Rica, El Salvador, Mexico, Peru and Uruguay reported their introduction of electronic systems of procurement. After providing a detailed account of legislation and other measures to ensure public dissemination of information related to procedures and conditions for public procurement, Argentina indicated that the involvement of the Chamber of Commerce and non-governmental organizations would improve the transparency of the processes. The Dominican Republic indicated that a standard system for procurement, part of the general financial administration system, would be launched by the end of 2007. Reporting on objective and predetermined criteria for public procurement decisions (art. 9, para. 1 (c)), Argentina and Peru provided detailed descriptions of existing legislation and other measures, yet they deemed it useful to develop plans of action for their implementation. Reporting on measures for public procurement personnel (art. 9, para. 1 (e)), Argentina indicated that asset declarations and declarations on previous employment were requested from all public officials through an ad hoc, computer-based system. While stating that such declarations were partially accessible to the public, Argentina expressed the need for more adequate legislation and training on the matter. Brazil indicated partial compliance by stating that while public officials responsible for procurement decisions were prohibited from participating in the bidding, they were not obliged to submit statements of interest. El Salvador mentioned that a training programme for public procurement personnel was being considered. Peru reported that a draft law was under discussion in the Congress to introduce mandatory training for public procurement personnel prior to employment. Bolivia and the Dominican Republic reported no implementation of the provision under review. Out of 12 reporting parties, 7 indicated the adoption of measures in accordance with the Convention to promote transparency and accountability in the management of public finances (art. 9, para. 2). Argentina, Bolivia, Brazil, the Dominican Republic and Paraguay reported partial implementation of such measures. Chile, reporting compliance with the paragraph under review, did not provide information on procedures for the adoption of the national budget (an obligatory reporting requirement). All reporting parties cited, quoted or annexed relevant legislation. Argentina reported full compliance with the requirement to implement measures providing for the adoption of the national budget, for timely reporting on revenue and expenditures and for systems of accounting, auditing and related oversight (art. 9, subparas. 2 (a)-(c), respectively), citing or referring to web links for relevant legislation. However, Argentina indicated partial implementation of a system for effective and efficient risk management, internal control and corrective action in case of failure to comply with measures adopted in accordance with the article under review (art. 9, subparas. 2 (d) and (e)). Bolivia, Brazil, the Dominican Republic and Paraguay, which reported compliance with other measures prescribed by the paragraph under review, indicated partial implementation or no implementation (the Dominican Republic) of systems of risk management and internal control (art. 9, subpara. 2 (d)). Paraguay reported that action was under way to meet the requirements of the Convention. Chile stated that pursuant to Presidential Instruction No. 7 of 2006, the General Council for Internal Audit had developed a methodology for the

implementation of systems of risk management, which would become operational in 2008. All reporting parties except Chile (no information provided in relation to an obligatory reporting requirement) indicated the adoption of measures to prevent the falsification of public expenditure records (art. 9, para. 3). While Bolivia, Costa Rica, the Dominican Republic and Mexico reported that sanctions had been established in case of falsification of accounting documents, only Mexico presented information on such sanctions. No reporting party provided examples to substantiate their statements (an optional reporting requirement). Box 15 contains examples of positive implementation of article 9, subparagraph 1 (a), of the Convention by Argentina, Colombia and Peru, box 16 contains an example of implementation of paragraph 1 (d) of the article by Chile, box 17 contains an example of implementation of subparagraph 2 (a) of the article by Brazil, and box 18 contains examples of subparagraph 2 (b) of the article by Brazil and Colombia.

Box 15

**Examples of positive experience in implementing systems of procurement designed to prevent corruption: Argentina, Colombia and Peru**

**Systems of procurement designed to prevent corruption (art. 9, subpara. 1 (a))**

- **Argentina.** Invitations to tender and conditions related to the tender must be published in the official gazette and on the website of the Public Procurement Office. If tenders involve more than 5 million pesos, invitations must be published in the most widely disseminated private press channels. In addition, invitations must be sent to relevant professional associations.
- **Colombia.** To date, 1,253 public entities have published information on ongoing procurement activity through the central procurement portal (<http://www.contratos.gov.co>). A total of 4,854 invitations to tender were published between January and August 2007.
- **Peru.** In accordance with the Procurement Law (2001), all procurement must be processed through the standard national system (<http://www.seace.gob.pe>). To date, 82 per cent of public contracts are being awarded through this system.

Box 16

**Example of positive experience in implementing systems of domestic review of public procurement decisions: Chile**

**Systems of domestic review of public procurement decisions (art. 9, subpara. 1 (d))**

- **Chile.** The Court of Public Procurement is an autonomous body which decides on appeals against procurement decisions. The Court adjudicated 45 cases in 2005; 100 in 2006; and 47 in the first half of 2007. The decisions of the Court can be appealed before the Appeals Court.

Box 17

**Example of positive experience in implementing procedures for the adoption of the national budget: Brazil****Procedures for the adoption of the national budget (art. 9, subpara. 2 (a))**

- **Brazil.** The Federal Constitution provides for the obligation to adopt laws on the four-year plan, the budget guidelines and the annual budget. No investments whose execution exceeds the fiscal year may be implemented without prior inclusion in the four-year plan. The Budget Guidelines Law seeks to synchronize the Annual Budget Law with the directives, objectives and targets determined by the four-year plan.

Box 18

**Example of positive experience in implementing measures on timely reporting on revenue and expenditures: Brazil and Colombia****Timely reporting on revenue and expenditures (art. 9, subpara. 2 (b))**

- **Brazil.** The Federal Constitution provides for the obligation to publish, within 30 days after the closing of each two-month period, a summarized report on budget implementation.
- **Colombia.** All public entities must report on their revenue and expenditure to the Auditor General's Office, which is entitled to request correctional plans (104 correctional plans were submitted between March and October 2006). Reports on revenues and expenditures are entered in a database (<http://www.sigob.gov.co>), which also provides information on the implementation of the National Plan for Development. The database is also linked to the integrated financial information system of the Ministry of Finance.

**(e) Group of Western European and Other States**

47. Out of the 12 reporting States parties, Canada, Finland, France, the Netherlands, Portugal, Sweden and the United States assessed their measures on public procurement and management of public finances as fully in compliance with the article under review. Austria, Norway and the United Kingdom reported partial compliance with the article. Spain and Turkey provided no information on the implementation of the entire article (an obligatory reporting requirement). All reporting parties cited, quoted, annexed (Sweden) or provided a detailed account of (Canada) comprehensive measures providing for the public dissemination of information on procurement procedures and contracts (art. 9, subpara. 1 (a)); conditions for participation in public procurement (art. 9, subpara. 1 (b)); criteria for public procurement decisions (art. 9, subpara. 1 (c)); and systems of domestic review of public procurement decisions (art. 9, subpara. 1 (d)). Canada, France, the Netherlands, Norway and the United States reported an increasing use of online procurement systems to advertise invitations to submit tenders and related conditions. All reporting parties except Austria, Norway and the United Kingdom (partial implementation) reported the adoption of measures regarding public

procurement personnel (art. 9 subpara. 1 (e)). In the same vein, the United States referred to the Federal Acquisition Certification in Contracting Program, approved by the Office of Federal Procurement Policy and the Chief Acquisition Officers Council in December 2005. Reportedly, the goal of the certification programme is to standardize the education, training and experience requirements for procurement personnel. Finland, France, the Netherlands, Norway, Sweden and the United Kingdom stated that compliance with the provisions under review emanated from incorporation into the domestic legal order of the procurement directives of the European Union.<sup>9</sup> Reporting in a more detailed manner, Canada mentioned its Code of Conduct for Procurement, adopted under an initiative of the Minister of Public Works and Government Services in 2007 and the Netherlands cited its Public Administration (Probity Screening) Act. In relation to the adoption of the national budget (art. 9, subpara. 2 (a)), most of the reporting parties (Austria, Canada, Finland, France, the Netherlands and the United States) stressed that the matter was regulated by their constitutions and ensuing laws and regulations. All respondents indicated that the budget was approved by legislative assemblies, following submission by the Minister of Finance (Canada), the President (United States), or concerted procedures involving different branches of the executive power. France and the United States noted that, to foster transparency and accountability, their national budgets were published. In particular, via the Internet the American public had access to the President's budget proposal and the appropriations and authorizing laws enacted by Congress. The national budget also provided historical spending trends to help readers place future budget requests into context. Portugal provided information unrelated to the provision under review. All reporting parties except the United Kingdom (partial implementation) and Finland (no information provided in relation to an obligatory reporting requirement), assessed their measures providing for reporting on revenue and expenditure (art 9, subpara. 2 (b)) as fully consistent with the Convention. Canada, France, the Netherlands, Norway, Sweden and the United States presented information on such measures. France specified that State expenditure and revenue estimates were presented annually to the Parliament and published, while updates on the implementation of the budget were published on the Internet every month. Similarly, the United States reported that, in accordance with its Constitution, regular statements and accounts of receipts and expenditures of all public money were periodically published. Portugal presented information on its tax system but did not furnish information related to the implementation of the provision under review. All reporting parties except the United Kingdom (partial implementation stated and no further information provided in relation to an obligatory reporting requirement) assessed their systems of accounting, auditing and related oversight as being in full conformity with the Convention (art. 9, subpara. 2 (c)). Detailed descriptions of such systems were provided by the large majority of the respondents. While all reporting parties reported the adoption of measures establishing systems of risk management and internal control (art. 9,

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<sup>9</sup> Directive 2004/17/EC of the European Parliament and of the European Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (Official Journal of the European Union, L 134 of 30 April 2004) and corrigendum (Ibid., L 358 of 3 December 2004) and Directive 2004/18/EC of the European Parliament and of the European Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (Ibid., L 134 of 30 April 2004) and corrigendum (Ibid., L 351 of 26 November 2004).

subpara. 2 (d)) and provided detailed information, the United Kingdom did not cite the measures reportedly adopted (an obligatory reporting requirement). All reporting parties presented information on the type of corrective action foreseen in case of failure to comply with domestic measures promoting transparency and accountability in the management of public finances (art. 9, subpara. 2 (e)). The United Kingdom reported partial compliance with this provision and provided no further information (an obligatory reporting requirement). An account of disciplinary, civil and criminal sanctions was provided by the vast majority of those States parties which reported the adoption of measures to preserve the integrity of accounting documents and prevent their falsification (art. 9, para. 3). The United Kingdom reported that such measures had been adopted but did not cite them (an obligatory reporting requirement). Examples of positive implementation of article 9, subparagraph 1 (a), of the Convention by Canada and the United States are described in box 19, while examples of implementation of paragraph 1 (d) of the article by Canada and Finland can be found in box 20.

Box 19

**Examples of positive experience in implementing systems of procurement designed to prevent corruption: Canada and United States**

**Systems of procurement designed to prevent corruption (art. 9, subpara. 1 (a))**

- **Canada.** A total of 71 per cent of Government-wide procurement is done through electronic tendering. The Government Electronic Tendering System (<http://www.merx.com>) awards contracts worth between 80 and 90 per cent of the amount spent on procurement each year.
- **United States.** FedBizOpps (<http://www.fedbizopps.gov>) is the single Government point-of-entry for Federal government procurement opportunities worth over \$25,000. Government buyers can publicize their business opportunities by posting information directly to FedBizOpps via the Internet. Through the portal, commercial vendors seeking Federal markets for their products and services can search, monitor and retrieve opportunities solicited by the entire Federal contracting community.

Box 20

**Examples of positive experience in implementing systems of domestic review of public procurement decisions: Canada and Finland**

**Systems of domestic review of public procurement decisions (art. 9, subpara. 1 (d))**

- **Canada.** In the past five years, the Canadian International Trade Tribunal has received 330 procurement complaints. More than 95 per cent were filed by Canadian suppliers.
- **Finland.** Unsuccessful parties that participated or could have participated in public tenders can appeal to the Market Court, which can suspend the procurement until a decision on the matter is reached. The Market Court may examine appeals on grounds of conflict of interest (art. 9, subparagraph 1 (e)).

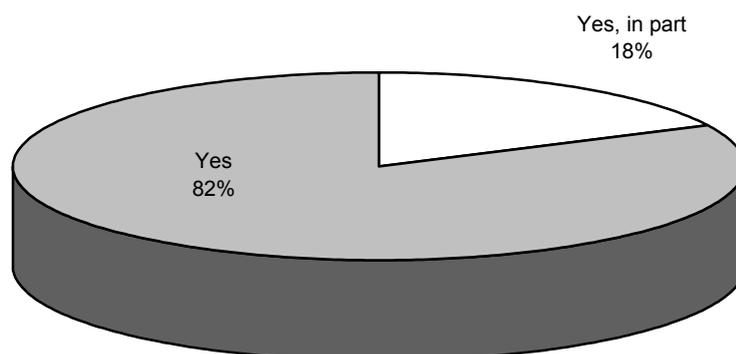
## B. Criminalization and law enforcement (chapter III of the Convention)

### 1. Bribery of national public officials (article 15)

48. The global implementation of article 15 of the Convention is illustrated in figure V. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure V

#### Global implementation of article 15 (reporting parties)



#### (a) Group of African States

49. All five reporting States parties cited legislative measures to criminalize active and passive bribery of national public officials in compliance with the Convention (art. 15, paras. (a) and (b)). Burkina Faso noted that members of the medical profession were also subject to rules governing bribery of national public officials. An example of positive implementation of article 15 of the Convention by Nigeria is described in box 21.

Box 21

#### Example of positive experience in implementing measures relating to bribery of national public officials: Nigeria

##### Bribery of national public officials (art. 15)

- **Nigeria.** Successful prosecution and conviction of ministers and other top public officials. Ongoing prosecution of the former President of the Senate on charges of solicitation and acceptance of bribes from the Minister of Education for the approval of the budget of the Federal Ministry of Education. The President of the Senate was removed from office while the Minister of Education cooperated fully with the investigation but nevertheless lost his job.

**(b) Group of Asian and Pacific States**

50. Indonesia, Jordan and the Philippines reported full compliance with article 15, while Bangladesh and Kyrgyzstan indicated partial compliance. Bangladesh reported that its 1860 Penal Code was not fully aligned to the Convention in relation to criminalization of active bribery of national public officials (art. 15, para. (a)). Kyrgyzstan, reporting partial compliance in terms of the definition of “public officials” introduced by the Convention, stated that the National Anti-Corruption Agency was in the process of amending relevant articles of the Penal Code to ensure harmonization. Passages of the draft amendments that indeed were in line with the Convention were provided. To substantiate the reported compliance of measures criminalizing active and passive bribery of national public officials, Indonesia provided several examples of prosecution of high-level public officials. However, no information on convictions was provided (an optional reporting requirement).

**(c) Group of Eastern European States**

51. Belarus, Croatia, Latvia, Lithuania, Montenegro, Poland, Slovakia, Romania and the former Yugoslav Republic of Macedonia reported implementation of measures criminalizing active and passive bribery of national public officials, citing (Croatia) or quoting (all other reporting parties) relevant articles of their Penal Code. Belarus noted that harmonization with the Convention was being achieved thanks to the adoption, in 2007, of a comprehensive anti-corruption law intended to provide for the necessary revisions of the Penal Code. The Russian Federation reported partial compliance with the provision of the Convention that criminalizes active bribery of public officials (art. 15, para. 2 (a)). In fact, while the Penal Code of the Russian Federation provided for the criminalization of active bribery of “officials”, the lack of a definition of “public officials” in the domestic system rendered the scope of application of the Russian Penal Code narrower than that prescribed by the Convention. To substantiate their statements, Croatia, Poland, Romania and Slovakia provided recent examples of successful application of relevant domestic measures, including, in the case of Poland and Romania, case law examples. Conversely, Latvia, Lithuania and the former Yugoslav Republic of Macedonia provided no examples to substantiate their reported compliance (an optional reporting requirement). Montenegro stated that the inability to provide such examples was due to the recent establishment (2005) of the Administrative Office of the Supreme Court, responsible for compiling and analysing information on prosecutions and convictions. An example of positive experience in implementing article 15 of the Convention by Romania is described in box 22.

Box 22

**Example of positive experience in implementing measures relating to active and passive bribery of national public officials: Romania**

**Active and passive bribery of national public officials (art. 15, subparas. 1 (a) and (b))**

- **Romania.** During 2006 and the first quarter of 2007, the National Anti-Corruption Directorate indicted 31 individuals for offering bribes to public officials and 143 public officials for taking bribes. A total of 57 public

officials were convicted. During the same period, the Regular Prosecutor's Office indicted 337 defendants for giving and taking bribes, of which 125 were convicted.

**(d) Group of Latin American and Caribbean States**

52. Out of the 12 reporting parties, all except Argentina and Peru reported full compliance with article 15 citing (Bolivia, Mexico, Paraguay and Uruguay), quoting (Brazil, Chile, Costa Rica and the Dominican Republic) or annexing (Colombia and El Salvador) relevant legislation. Six respondents provided examples of successful application of such legislation, including case law examples (Chile, Costa Rica, El Salvador, Paraguay and Uruguay). Argentina, reporting partial compliance, stated that legislative amendments were envisaged to extend the notion of "recipient of an undue advantage" in order to cover persons or entities related to the duties and functions of a public official. Peru, reporting partial compliance, annexed an analysis of relevant articles of its Penal Code and concluded that a revision was necessary to cover the instance of "indirect" offer or solicitation of an undue advantage.

**(e) Group of Western European and Other States**

53. All 12 reporting parties cited (Austria, Canada, France and Turkey) or excerpted (all the others) relevant articles of their Penal Code providing for the criminalization of active and passive bribery of national public officials in line with the Convention. Austria assessed its relevant measures as partly consistent with the terms of the Convention but did not elaborate further (an optional reporting requirement). Turkey, while citing legislation, did not provide information on its ability to meet the specific requirements of article 15 (an obligatory reporting requirement). Examples of positive experience in implementing article 15 of the Convention by Finland, France, the United Kingdom and the United States are described in box 23.

Box 23

**Examples of positive experience in implementing measures relating to active and passive bribery of national public officials: Finland, France, United Kingdom and United States**

**Active and passive bribery of national public officials (art. 15, subparas. 1 (a) and (b))**

- **Finland.** Between 1996 and 2005, adjudications of active bribery cases comprised 78 conventional bribery offences, 3 aggravated bribery offences, 1 case of electoral bribery and 6 cases of bribery in business relationships, while passive bribery cases comprised 56 offences, 4 in business relationships.
- **France.** Active bribery-induced convictions amounted to 86 in 2003, 59 in 2004 and 47 in 2005. Passive bribery-induced convictions amounted to 38 in 2003, 42 in 2004 and 55 in 2005.
- **United Kingdom.** Bribery-induced convictions amounted to 12 in 2001, 20 in 2002, 7 in 2003, 4 in 2004 and 2 in 2005. In April 2007, a Ministry of

Defence official, Michael Hale, was convicted of accepting bribes totalling £217,000.

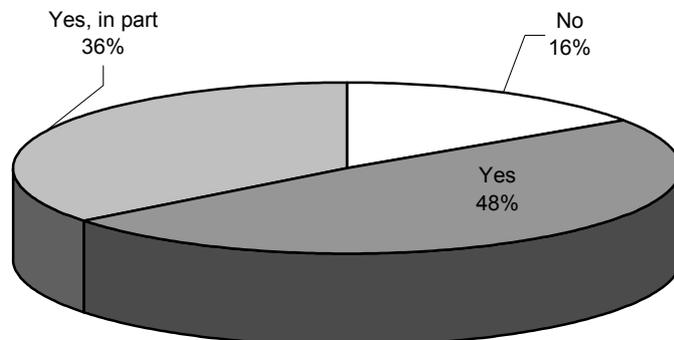
- **United States.** In the period 2001-2005, 5,749 individuals were charged with public corruption offences (an increase of 7.5 per cent over the period 1996-2000), resulting in 4,846 convictions (an increase of 1.5 per cent). Former Congressman Randall Cunningham pleaded guilty to bribery charges and was sentenced in March 2006 to more than 8 years in prison. Sitting Congressman William Jefferson was indicted in June 2007 on charges of bribery, racketeering, honest services fraud, conspiracy and violation of the Foreign Corrupt Practices Act. Jefferson's former Legislative Assistant pleaded guilty to conspiracy and bribery and was sentenced in May 2006 to 8 years in prison. Two former state governors have been convicted of bribery offences. A large-scale bribery investigation into the activities of Jack Abramoff, a well known Washington, D.C., lobbyist, is under way. To date, the investigation has netted 11 bribery-related convictions, including a guilty plea by the former Deputy Secretary of the Department of the Interior and the conviction of a former official of the United States General Services Administration.

## 2. Bribery of foreign public officials and officials of public international organizations (article 16)

54. The global implementation of article 16 of the Convention is illustrated in figure VI. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure VI

### Global implementation of article 16 (reporting parties)



#### (a) Group of African States

55. Algeria, Namibia and the United Republic of Tanzania indicated full compliance with article 16. Burkina Faso indicated that it did not comply with the mandatory provision of article 16 providing for the criminalization of active bribery of foreign public officials and officials of public international organizations (art. 16, para. 1). The same States added that the criminalization of passive bribery of such

officials (art. 16, para. 2) had automatically become a domestic criminal offence as a result of the ratification of the Convention. In Nigeria, neither active nor passive bribery of foreign public officials and officials of public international organizations were established as criminal offences. All the States that reported compliance with article 16 cited relevant domestic measures without providing examples to substantiate their statements (an optional reporting requirement).

**(b) Group of Asian and Pacific States**

56. While Bangladesh reported partial compliance with the provisions of the Convention providing for the criminalization of active and passive bribery of a foreign public official or an official of a public international organization, Indonesia, Jordan and the Philippines reported no compliance with the entire article. Kyrgyzstan reported partial implementation of measures criminalizing active bribery and no criminalization of passive bribery of international public officials. To achieve compliance with the mandatory provision of article 16, Kyrgyzstan reported that amendments to its Penal Code were under way.

**(c) Group of Eastern European States**

57. Belarus, Croatia, Latvia, Lithuania, Montenegro, Poland, Slovakia, Romania and the former Yugoslav Republic of Macedonia reported full compliance with the provisions of the Convention providing for the criminalization of active (mandatory provision) and passive (non-mandatory provision) bribery of a foreign public official or an official of a public international organization. The Russian Federation reported no compliance with the entire article. Croatia cited and all other reporting parties quoted relevant articles of their Penal Codes. No reporting State party provided examples to substantiate the effectiveness of such articles (an optional reporting requirement), while Poland, Romania and Slovakia stated that no cases had been recorded to date.

**(d) Group of Latin American and Caribbean States**

58. Out of the 12 reporting parties, Costa Rica and Mexico reported full compliance with article 16 stating, however, that no cases of active or passive bribery of foreign public officials or officials of public international organizations had been recorded. Argentina, Brazil, the Dominican Republic and El Salvador indicated full compliance with the mandatory provision of the Convention providing for the criminalization of active bribery and no implementation of the non-mandatory provision criminalizing passive bribery of a foreign public official or an official of a public international organization. Bolivia and Peru reported that neither active nor passive bribery of such public officials had been criminalized. Chile reported the adoption of measures criminalizing active bribery of foreign public officials, although no such cases had been recorded, and of measures providing for partial compliance with the provision of the Convention criminalizing passive bribery of such public officials. Colombia and Paraguay reported partial compliance with article 16, paragraph 1, and no compliance with paragraph 2 of the article. Uruguay, reporting partial implementation of both paragraphs, stated that active and passive bribery of foreign public officials had been criminalized, but not that of officials of public international organizations.

**(e) Group of Western European and Other States**

59. All reporting parties except France (partial implementation) indicated the adoption of measures providing for the criminalization of active bribery of a foreign public official or an official of a public international organization in accordance with the relevant mandatory provision of the Convention. Turkey cited legislation but did not assess its ability to meet the specific requirement of the Convention (an obligatory reporting requirement). All except Austria, France, the United States (partial implementation) and Portugal (no implementation) reported compliance with the non-mandatory provision of the Convention providing for the criminalization of passive bribery of a foreign public official or an official of a public international organization. In relation to active bribery, passages of relevant legislation were provided by France, Finland, the Netherlands, Norway, Portugal, the United Kingdom and the United States. France, while reporting partial compliance, stated that 15 proceedings on charges of corruption of a foreign public official were pending. Due to the recent establishment of the offence (2000), no convictions had been recorded as yet. Finland, which reported compliance with the provision under review, added that no cases of active bribery of a foreign public official had been investigated and prosecuted to date, while Canada indicated that one such case had been recorded since the establishment of the offence in 1998. The United Kingdom and the United States presented information, respectively, on the specific ability of the Anti-Terrorism, Crime and Security Act 2001 and of the Foreign Corrupt Practices Act to sanction the offering or giving of an undue advantage to a foreign public official or an official of a public international organization. The United States provided 21 examples of case law. In relation to passive bribery, Austria, France and the United States presented information on their reported partial compliance with the non-mandatory provision of the Convention. Austria and France explained that the solicitation or acceptance of any undue advantage by a foreign public official or an official of a public international organization, was established as a criminal offence only if perpetrated by a public official of another State member of the European Union or by an official of an institution of the European Union. Both States noted that consideration was being given to the legislative amendments necessary to expand the offence beyond the scope of the European Union. The United States indicated that although not specially foreseen by the law, federal law enforcement authorities, depending upon the facts and circumstances of a given case, could potentially punish the conduct described in article 16, paragraph 2, under various theories of United States federal criminal law, including but not limited to the honest services, wire and mail fraud statutes and the conspiracy statute. Examples of positive experiences in implementing article 16 by the United Kingdom and the United States are described in box 24.

Box 24

**Examples of positive experience in implementing measures relating to bribery of foreign public officials and officials of public international organizations: United Kingdom and United States**

**Bribery of foreign public officials and officials of public international organizations (art. 16)**

➤ **United Kingdom.** “For the purposes of any common law offence of bribery it

is immaterial if the functions of the person who receives or is offered a reward have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom” (Anti-Terrorism, Crime and Security Act 2001).

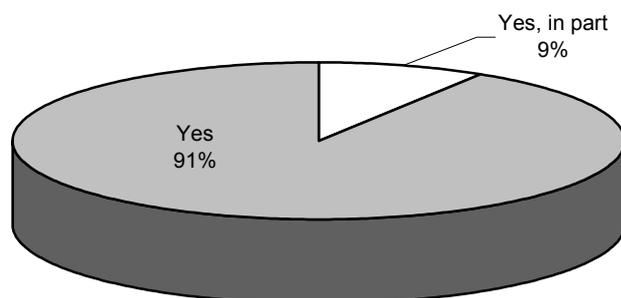
- **United States.** Enforcing the United States Foreign Corrupt Practices Act is a significant priority for the Criminal Division of the United States Department of Justice. In the past two years alone, enforcement of the Act has hit historic highs. In 2006, the Fraud Section initiated eight prosecutions under the Act, which was a record high for a single year in the 30-year history of the Act. As at July 2007, the Justice Department has already exceeded that total. These prosecutions involve both individuals and companies from a broad range of industries and geographical locations. In addition to these law enforcement efforts, the Justice Department’s senior law enforcement officials have conducted outreach to the United States business community in speeches, interviews and in other ways, to reinforce the message that bribery is bad for business.

### 3. Embezzlement, misappropriation or other diversion of property by a public official (article 17)

60. The global implementation of article 17 of the Convention is illustrated in figure VII. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure VII

#### Global implementation of article 17 (reporting parties)



#### (a) Group of African States

61. All five reporting parties cited domestic measures adopted to establish as a criminal offence embezzlement, misappropriation or other diversion of property by a public official. Nigeria referred, as an example of implementation of such measures, to another passage in its self-assessment report highlighting cases of public officials convicted on grounds of embezzlement.

#### (b) Group of Asian and Pacific States

62. All reporting parties except Kyrgyzstan (which reported partial implementation but stated that necessary legislative amendments were under way) indicated full implementation of the article under review by citing measures adopted

to criminalize embezzlement, misappropriation or other diversion of property by a public official. An example of a positive experience in implementing article 17 of the Convention by Indonesia is given in box 25.

Box 25

**Example of positive experience in implementing measures relating to embezzlement, misappropriation or other diversion of property by a public official: Indonesia**

**Embezzlement, misappropriation or other diversion of property by a public official (art. 17)**

➤ **Indonesia.** In 2004, the Governor of the Province of Aceh utilized the provincial budget to purchase Russian-manufactured helicopters. It emerged that the purchase involved inflated invoices. The engines of the helicopters were second-hand, contrary to the stipulated contract of sale. The Supreme Court sentenced the Governor to imprisonment.

**(c) Group of Eastern European States**

63. All 10 reporting parties cited or quoted relevant articles of their penal codes providing for the criminalization of embezzlement, misappropriation or other diversion of property by a public official, thus reporting full compliance with article 17. To substantiate their statements, Latvia, Poland and Romania provided detailed figures on prosecutions and convictions of public officials and related examples of case law. Slovakia stated that embezzlement and misappropriation were among the most frequently prosecuted offences in the country. Belarus, Croatia, Lithuania, Montenegro, the Russian Federation and the former Yugoslav Republic of Macedonia did not provide examples to substantiate the effectiveness of their reported measures (an optional reporting requirement).

**(d) Group of Latin American and Caribbean States**

64. Out of the 12 reporting countries, all but Argentina and Bolivia indicated full compliance with article 17, citing or quoting relevant legislation. However, only Chile, Costa Rica and Paraguay provided examples of case law to substantiate the effectiveness of such legislation (an optional reporting requirement). Argentina reported partial implementation of article 17 because the mere use of public property by public officials was not subsumed under the notion of “other diversion of funds” covered by its Penal Code. Bolivia explained the reported partial compliance by stating that under its Penal Code, embezzlement and misappropriation of property were criminalized but diversion of funds by a public official was not. Necessary amendments to the penal code of Bolivia were being adopted.

**(e) Group of Western European and Other States**

65. All reporting parties except Turkey (partial implementation) reported the implementation of measures in compliance with the Convention providing for the establishment, as a criminal offence, of embezzlement, misappropriation or other diversion of property by a public official. All except Norway (which cited no

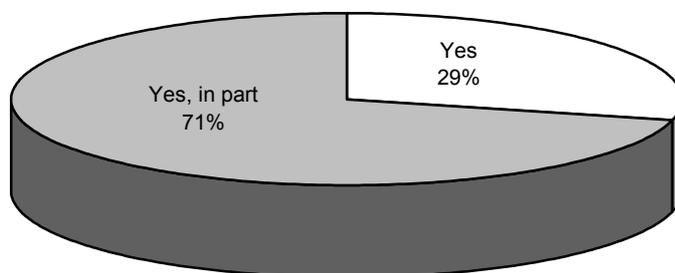
measures in relation to an obligatory reporting requirement) cited, excerpted or annexed relevant legislation, which was predominantly taken from national Penal Codes. Reporting in a more detailed manner and fulfilling optional reporting requirements, France noted that in 2005, 84 defendants had been convicted of misappropriation of public property, while the United States provided detailed examples of case law. Turkey, reporting partial implementation, cited legislation but provided no further information (an optional reporting requirement).

#### 4. Laundering of proceeds of crime (article 23)

66. The global implementation of article 23 of the Convention is illustrated in figure VIII. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure VIII

#### Global implementation of article 23 (reporting parties)



##### (a) Group of African States

67. All five reporting States cited, excerpted or annexed (Burkina Faso) information on domestic measures adopted to implement article 23. Nigeria indicated that the Money-Laundering (Prohibition) Act 2004 and the Economic and Financial Crimes Commission (Establishment) Act 2004 adopted an “all-crime” approach whereby the laundering of the proceeds of a broad range of predicate offences was criminalized. Such offences included any form of fraud, trafficking in narcotic drugs, embezzlement, bribery, looting, any form of corrupt practices, illegal arms smuggling, human trafficking, child labour, tax evasion, counterfeiting of currency, theft of intellectual property, piracy and open market abuse. Namibia and Nigeria did not comply with the notification obligation (art. 23, para. 2 (d)) whereby States parties are requested to provide the Secretary-General with copies of their laws giving effect to article 23 and subsequent modifications. Requested to furnish such copies or provide a description of such laws together with their self-assessment reports, Namibia deferred the matter while Nigeria provided a copy of the relevant law, i.e. the Economic and Financial Crimes Commission (Establishment) Act 2004. An example of positive implementation of article 23 by Nigeria is given in box 26.

Box 26

**Example of positive experience in implementing measures relating to laundering of proceeds of crime: Nigeria****Predicate offences in the laundering of proceeds of crime (art. 23, subparas. 2 (a)-(c) and (e))**

- **Nigeria.** The Money-Laundering (Prohibition) Act 2004 has enabled the prosecution and conviction of top public officials – ministers, state governors and the Police Inspector General among others – accused of corruption and embezzlement, partly because it is not required to prove the underlying predicate offence.

**(b) Group of Asian and Pacific States**

68. Indonesia, Jordan and the Philippines cited domestic measures adopted to implement article 23, while Bangladesh and Kyrgyzstan reported partial implementation. While the 2002 Money-Laundering Prevention Act of Bangladesh provided for the criminalization of the conversion or transfer of property proceeds of crime and the acquisition, possession or use of property proceeds of crime (art. 23, subparas. 1 (a) (i) and (b) (i)), a new and more detailed Anti-Money-Laundering Law was being considered by the Government. Bangladesh also reported that no measures had been adopted to extend the criminalization of money-laundering to the widest range of predicate offences (art. 23, subparas. 2 (a)-(c) and (e)). Kyrgyzstan assessed Presidential Decree No. 352 on Preventing and Combating Money-Laundering and Terrorism Financing (2006) as partly in compliance with the requirements of article 23, stating that a financial intelligence unit had been established. In contrast, the Philippines indicated that its Anti-Money-Laundering Law applied to a large number of predicate offences, including kidnapping, drug-related offences, graft and corruption, plunder, robbery, illegal gambling, piracy, qualified theft, swindling, smuggling, computer hacking and piracy, violations of the Consumer Act, hijacking, terrorism and securities fraud. Reporting on measures adopted to criminalize the conversion or transfer of proceeds of crime, Indonesia substantiated the compliance of its Anti-Money-Laundering Law (adopted in 2000 and amended in 2003) by providing four detailed examples of case law. Bangladesh, Indonesia and Kyrgyzstan fulfilled neither the notification obligation (art. 23, para. 2 (d)) nor the request (an obligatory reporting requirement) to furnish copies or provide a description of anti-money-laundering laws together with their self-assessment reports. Kyrgyzstan however, provided a detailed account of Presidential Decree No. 352 throughout its self-assessment report. The Philippines annexed the Anti-Money-Laundering Act 2001, as amended in 2003, to its self-assessment report.

**(c) Group of Eastern European States**

69. All 10 reporting States parties indicated that domestic measures had been adopted to implement article 23. Reporting on the criminalization of conversion or transfer of property proceeds of crime, Croatia and Slovakia cited relevant legislation while other reporting parties provided a detailed account of relevant articles of their criminal codes or of ad hoc anti-money-laundering legislation.

However, Belarus, Croatia, Latvia, Lithuania, Montenegro, the Russian Federation and the former Yugoslav Republic of Macedonia did not provide examples to substantiate the reported adequacy of their legislation (an optional reporting requirement). In contrast, Poland and Romania provided detailed examples of case law prompted by suspicious transactions in the amounts of US\$ 1 million and Euros 4.5 million respectively. All reporting parties cited or quoted relevant measures providing for the criminalization of acquisition, possession or use of proceeds of crime. However, only Latvia and Poland provided substantiating examples. Romania reported that no cases had been recorded to date, while Slovakia referred to “criminal offences of laundering of proceeds of crimes reported and prosecuted in practice”. All reporting parties cited or quoted domestic measures establishing the range of predicate offences subject to the application of anti-money-laundering laws (art. 23, subparas. 2 (a)-(c) and (e)). Belarus, while reporting compliance with the provisions under review, quoted passages of its anti-money-laundering legislation (2000) that did not clarify the extent of the notion of predicate offence. Conversely, Poland, Slovakia and Romania indicated that according to their domestic systems, every offence capable of generating illicit gains was regarded as a predicate offence. Romania described the “all-crime” approach adopted by Law No. 656 (2002) and reported that offences of money-laundering committed in the jurisdiction of another country (art. 23, subpara. 2 (c)) could be prosecuted by Romanian courts provided that the perpetrator had Romanian citizenship or was a stateless person who had established his or her main residence on Romanian territory. To corroborate their statements, Poland and Romania provided examples of case law. Out of the 10 reporting parties, Belarus, Poland and the former Yugoslav Republic of Macedonia did not comply with the notification obligation (art. 23, para. 2 (d)) whereby States parties are requested to provide the Secretary-General with copies of their laws giving effect to article 23 and subsequent modifications. While Belarus and Poland fulfilled the request to furnish such copies or provide a description of such laws together with their self-assessment reports (an obligatory reporting requirement), the former Yugoslav Republic of Macedonia did not. An example of positive implementation of article 23, subparagraph 1 (a), by Romania is given in box 27.

Box 27

**Example of positive experience in implementing measures relating to conversion or transfer of property proceeds of crime: Romania**

**Conversion or transfer of property proceeds of crime (art. 23, subpara. 1 (a))**

- **Romania.** Suspicious transactions are investigated either by the Directorate for Investigation of Organized Crime and Terrorism or by the National Anti-Corruption Directorate. During 2006 and the first quarter of 2007, the National Anti-Corruption Directorate indicted 24 individuals on charges of laundering of proceeds of corruption. In 2006, the Directorate for Investigation of Organized Crime and Terrorism sent to court 32 money-laundering cases. The predicate offences were mainly tax evasion, fraud and misappropriation of funds.

**(d) Group of Latin American and Caribbean States**

70. Out of the 12 reporting parties, Brazil, Colombia, Costa Rica and Paraguay indicated that domestic measures had been adopted to implement article 23. All reporting parties cited or quoted relevant measures providing for the criminalization of conversion, transfer, acquisition, possession or use of property proceeds of crime. Argentina presented information on the “all crime approach” adopted to extend the application of the anti-money-laundering legislation to any offence capable of generating ill-gotten gains (art. 23, subparas. 2 (a)-(c) and (e)). However, Argentina added that its Penal Code did not allow for the perpetrator of the underlying predicate offence to be prosecuted for money-laundering and that its relevant legislation was being evaluated to determine needs for revision. Mexico also reported the adoption of an “all-crime approach”, stating that the perpetrator of the underlying predicate offence could also be prosecuted for money-laundering offences. Bolivia, reporting partial implementation of measures to criminalize the acquisition or possession of property proceeds of crime, stated that the range of predicate offences subject to anti-money-laundering legislation was limited to drug trafficking, corruption and organized crime. Such a limited scope had resulted in few convictions on grounds of money-laundering. Bolivia further stated that relevant legislation was being drafted to criminalize the laundering of proceeds of illicit enrichment by public officials. While reporting full implementation of measures criminalizing money-laundering, Chile provided no information on the range of predicate offences covered by its relevant legislation (art. 23, subparas. 2 (a)-(c) and (e)) (an obligatory reporting requirement). Conversely, Colombia provided an extensive list of predicate offences subject to anti-money-laundering legislation but did not furnish substantiating examples (an optional reporting requirement). Costa Rica, while reporting partial implementation of article 23, offered an account of its relevant legislation supported by several examples of case law. The Dominican Republic and El Salvador provided accounts of their relevant legislation. The former stated that any serious offence was regarded as a predicate offence while the latter added that money-laundering offences were indictable also when the underlying predicate offences had been committed abroad (art. 23, subpara. 2 (c)). Peru reported partial compliance with article 23 and stated that the majority of money-laundering prosecutions were related to proceeds of drug trafficking. However, since the adoption of new anti-money-laundering legislation, a growing number of cases of laundering of proceeds of corruption were being investigated and prosecuted. Out of the 12 reporting parties, only Brazil reported compliance with the notification obligation (art. 23, para. 2 (d)). When requested to furnish copies or provide a description of anti-money-laundering laws together with the self-assessment reports, Mexico and Paraguay cited and Argentina excerpted passages of relevant laws in the context of their reports and referred to official websites where additional legislation could be found. Bolivia, Chile, Costa Rica, the Dominican Republic and Peru provided passages of relevant legislation in the context of their reports. Colombia annexed a copy of its anti-money-laundering legislation. El Salvador and Uruguay did not fulfil the notification obligation required under both the Convention and the self-assessment checklist. An example of positive implementation of article 23, subparagraph 1 (a), by Mexico is given in box 28.

Box 28

**Example of positive experience in implementing measures relating to conversion or transfer of property proceeds of crime: Mexico**

**Conversion or transfer of property proceeds of crime (art. 23, subpara. 1 (a))**

- **Mexico.** Money-laundering is investigated by the Unit for Special Investigation of Organized Crime established under the Office of the General Prosecutor. In 2006, the Unit conducted 64 investigations resulting in 8 convictions. From January to May 2007, 18 investigations were conducted resulting in 4 convictions.

**(e) Group of Western European and Other States**

71. All 12 reporting parties indicated that measures providing for the criminalization of conversion, transfer, acquisition, possession or use of property proceeds of crime had been adopted in compliance with the Convention. The majority of the respondents quoted passages of relevant legislation, including excerpts of their Penal Codes, or of ad hoc anti-money-laundering laws. France reported 60 convictions of money-laundering in 2005, while Turkey provided detailed information on money-laundering investigations, prosecutions and convictions from 1997 to 2006. Limiting its analysis to the laundering of proceeds of corruption, the United Kingdom reported that anti-money-laundering laws had not been utilized to adjudicate such offences. The United States provided several examples of case law resulting in convictions for laundering or attempting to launder proceeds of corruption. In relation to the range of predicated offences subject to the application of measures criminalizing money-laundering (art. 23, subparas. 2 (a)-(c) and (e)), Finland, the Netherlands, Sweden and the United States reported the adoption of an “all crime approach”, rendering any ill-gotten gain subject to anti-money-laundering legislation. Austria reported that a list of predicate offences had been established and France and Turkey indicated the adoption of a “threshold” approach. In France, any offence punishable by imprisonment or a fine of more than Euros 1,500 was regarded as a predicate offence. Similarly, in Turkey, any offence punishable by deprivation of liberty of at least one year was considered a predicate offence. All these approaches were regarded as capable of extending anti-money-laundering laws to all the offences of corruption established in accordance with the Convention (art. 23, subpara. 2 (b)). Assessing their legislation against the specific requirements of the Convention, Austria and Sweden stated that the conduct of money-laundering was punishable also if the underlying predicate offence had been committed in another State. However, the perpetrator of the underlying offence could not be persecuted for the subsequent offence of money-laundering (art. 23, subparas. 2 (c) and (e)). France noted that its legislation had introduced more stringent measures than those prescribed by the Convention (compare with art 56, para 2). In fact, the predicate offence committed in a foreign State rendered the subsequent offence of money-laundering indictable in France even if the underlying conduct was not considered a crime in the State where it had taken place. The Netherlands, Norway and Sweden regarded the offence of money-laundering indictable regardless of where the underlying offence had been committed. Turkey considered money-laundering indictable following a predicate

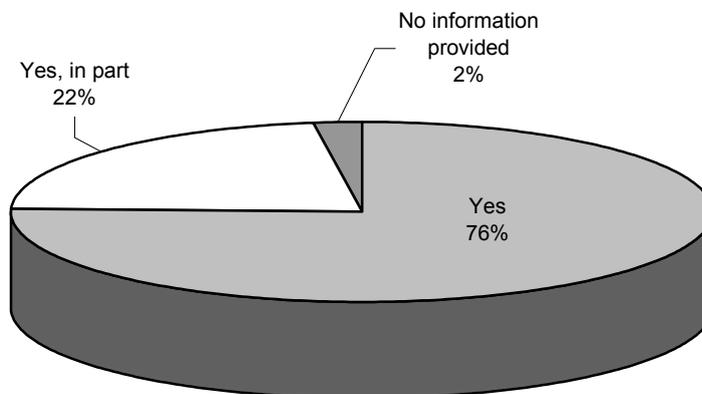
offence committed in a foreign State, provided that the conduct committed abroad was established as a criminal offence both in the foreign State and in Turkey (dual criminality). Out of the 12 reporting parties, only the United States fulfilled the notification obligation (art. 23, para. 2 (d)). When requested to furnish copies or provide a description of anti-money-laundering laws together with their self-assessment reports, Finland, the Netherlands and Turkey complied. All the other respondents excerpted considerable passages of relevant laws in the context of their self-assessment reports.

## 5. Obstruction of justice (article 25)

72. The global implementation of article 25 of the Convention is illustrated in figure IX. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure IX

### Global implementation of article 25 (reporting parties)



#### (a) Group of African States

73. While Algeria, Burkina Faso, Namibia and the United Republic of Tanzania indicated full compliance with article 25, Nigeria reported partial compliance with the mandatory provision of the Convention that provides for establishing as a criminal offence the use of physical force, threat or intimidation to induce false testimony in proceedings related to the commission of offences established in accordance with the Convention (art. 25, subpara. (a)). All reporting States parties cited relevant domestic measures, while Nigeria reported that the Economic and Financial Crimes (Establishment) Act 2004 provided for the criminalization of wilful interference with actions of judicial or law enforcement officials (art. 25, subpara. (b)).

#### (b) Group of Asian and Pacific States

74. Bangladesh, Indonesia and the Philippines cited domestic measures reportedly consistent with article 25, while Jordan and Kyrgyzstan deemed relevant articles of their Penal Codes as being in partial conformity with the Convention and recognized

the need for legislative revisions. Bangladesh and Indonesia substantiated their reported compliance by providing examples of case law.

**(c) Group of Eastern European States**

All 10 reporting parties stated that measures to implement the article under review had been adopted. All of them cited or quoted measures providing for the criminalization of use of inducement, threats or force to interfere with witnesses or officials in relation to criminal proceedings. Similarly, all reporting parties cited or quoted domestic measures providing for the criminalization of undue interference with actions of judicial or law enforcement officials in relation to criminal proceedings. The measures reported did not seem to draw a distinction between obstruction of justice in relation to other criminal proceedings and proceedings related to offences of corruption.

**(d) Group of Latin American and Caribbean States**

75. Out of the 12 reporting parties, all except Bolivia, the Dominican Republic, El Salvador, Paraguay and Peru reported full implementation of article 25. Argentina, Brazil, Colombia, Mexico and Uruguay cited or quoted relevant articles of their Penal Code but did not provide examples of their successful application (an optional reporting requirement). Chile and Costa Rica quoted relevant legislation and substantiated its effectiveness by providing examples of case law (Costa Rica) or examples of convictions following false testimony and violence against public officials in corruption-related proceedings (Chile). El Salvador reported full implementation, and Bolivia and Paraguay partial implementation, of measures providing for the criminalization of the use of inducement, threats or force to interfere with witnesses or officials in relation to criminal proceedings. Paraguay reported full implementation, Bolivia partial implementation and El Salvador no implementation of measures providing for the criminalization of undue interference with actions of judicial or law enforcement officials in relation to criminal proceedings. Bolivia added that a comprehensive anti-corruption law was being considered by the Parliament and that its adoption would ensure full compliance also with article 25. The Dominican Republic also reported that legislation was being drafted to criminalize, inter alia, reprisals against informants. Peru reported that its Penal Code had recently been amended to reflect the terms of article 25 of the Convention.

**(e) Group of Western European and Other States**

76. All respondents except France and Turkey indicated that measures had been adopted to criminalize both forms of obstruction of justice, as prescribed by article 25 of the Convention. Turkey reported partial compliance with the provision of the Convention establishing the first such form and full compliance with the provision establishing the second. France reported partial compliance with the entire article under review while Spain quoted but did not assess its relevant measures (an obligatory reporting requirement). Providing information on its partial compliance, France stated that necessary legislative revision was under way as it was unclear whether offences covered by its legislation would also apply to obstruction of justice administered in foreign jurisdictions or in international courts. Turkey did not present information on its reported partial compliance (an optional reporting

requirement). All the other respondents cited (Austria, Canada, Finland, the Netherlands and Portugal) or provided a detailed account of (Norway, Sweden, the United Kingdom and the United States) relevant legislation. The United States substantiated its statements by providing examples of case law.

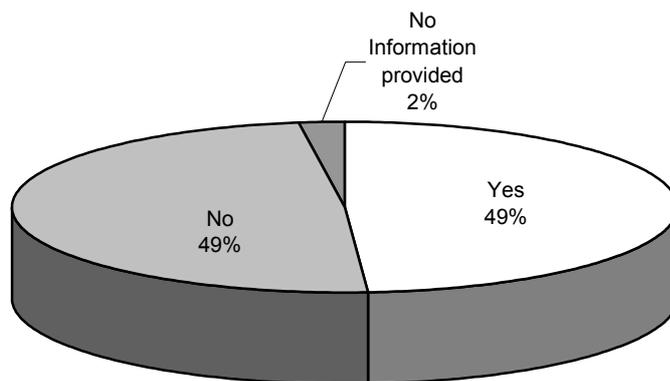
## C. International cooperation (chapter IV of the Convention)

### 1. Extradition (article 44)

77. 36. In accordance with article 44, paragraph 6 (a), a State party that makes extradition conditional on the existence of a treaty shall inform the Secretary General, at the time of ratification, acceptance, approval or accession to the Convention, whether it will take the Convention as the legal basis for cooperation on extradition with other States parties. The global implementation of article 44, paragraph 6 (a), of the Convention is illustrated in figure X. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure X

#### Global implementation of article 44 (reporting parties)



#### (a) Group of African States

78. Asked whether the notification obligation under article 44 of the Convention had been fulfilled, Burkina Faso and Namibia confirmed that it had and Nigeria and the United Republic of Tanzania responded that it had not. Algeria did not answer (an obligatory reporting requirement). Asked to provide such information together with their self-assessment report, Nigeria and the United Republic of Tanzania did not comply (an obligatory reporting requirement).

#### (b) Group of Asian States

79. Asked whether the notification obligation under article 44 had been fulfilled, the Philippines confirmed that it had, while Bangladesh, Indonesia, Jordan and Kyrgyzstan responded that it had not. Asked to provide such information together with their self-assessment report, Bangladesh reported that it took the Convention as the legal basis for cooperation on extradition with other States parties; Indonesia did

not meet the obligatory reporting requirement; Jordan reported that the matter was under consideration; and Kyrgyzstan stated that by Law No. 19 of 2004 the Convention had been taken as the legal basis for cooperation on extradition with other parties. Bangladesh also presented information on its Extradition Act (1974) and mentioned the existence of bilateral extradition treaties with Australia, Fiji, India, Malaysia, Papua New Guinea, Samoa, Singapore, Sri Lanka, Thailand and Vanuatu.

**(c) Group of Eastern European States**

80. Asked whether the above notification obligation had been fulfilled, Belarus, Croatia, Latvia, Lithuania, Montenegro, Poland, Romania and the Russian Federation confirmed that it had, while Slovakia and the former Yugoslav Republic of Macedonia responded that it had not. Asked to provide such information together with their self-assessment report, Slovakia stated that its Code of Criminal Procedure did not make extradition conditional on the existence of a treaty, while the former Yugoslav Republic of Macedonia deferred the matter.

**(d) Group of Latin American and Caribbean States**

81. Asked whether the above notification obligation had been fulfilled, Bolivia, Brazil, Chile, Costa Rica, El Salvador and Paraguay confirmed that it had, while Argentina, Colombia, the Dominican Republic, Mexico, Peru and Uruguay responded that it had not. Asked to provide such information together with their self-assessment report, Argentina, Colombia and Uruguay stated that their domestic systems did not make extradition conditional on the existence of a treaty. Mexico and Peru stated that they had taken the Convention as the legal basis for cooperation on extradition with other States parties. The Dominican Republic listed the type of instrument, including international treaties, to be regarded as the legal basis for international cooperation on extradition. However, no information on whether the Convention had been taken as the necessary legal basis was provided.

**(e) Group of Western European and Other States**

82. Asked whether the above notification obligation had been fulfilled, Canada, Spain, the United Kingdom and the United States confirmed that it had, while the remaining eight reporting parties responded that it had not. Out of those, Austria and Sweden stated that extradition was not conditional on the existence of an international treaty. France indicated that the Convention had been taken as the legal basis for cooperation on extradition with other States parties. The Netherlands reported that its law on extradition was being amended in order to enable the Convention to serve as the legal basis for cooperation with other States parties and that the Secretary-General would be notified soon thereafter. Portugal quoted and Norway cited extradition laws without clarifying whether the Convention had been taken as the legal basis for cooperation on extradition with other States parties. Finland and Turkey provided no information (an obligatory reporting requirement).

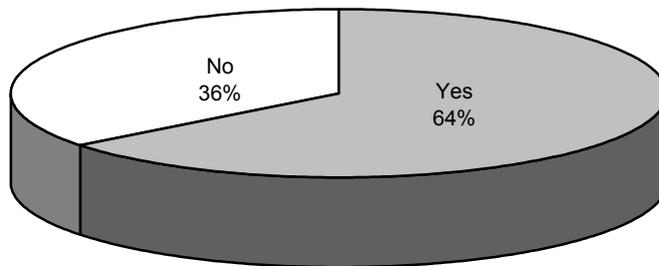
**2. Mutual legal assistance (article 46)**

83. Article 46, paragraph 13 of the Convention prescribes that each State party shall notify the Secretary-General of its central authority designated to receive, execute or transmit to other competent authorities requests for mutual legal

assistance. The global implementation of article 46, paragraph 13, of the Convention is illustrated in figure XI. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XI

**Global implementation of article 46 (reporting parties)**



**(a) Group of African States**

84. Asked whether the notification obligation under paragraph 13 of article 46 of the Convention had been fulfilled, Algeria, Burkina Faso, Namibia and the United Republic of Tanzania confirmed that it had. Nigeria provided the requisite information together with its self-assessment report.

**(b) Group of Asian and Pacific States**

85. Asked whether the notification obligation under article 46 had been fulfilled, Bangladesh and the Philippines confirmed that it had. Indonesia and Kyrgyzstan provided the requisite information together with their self-assessment report, while Jordan indicated that no central authority responsible for processing requests for mutual legal assistance had yet been designated.

**(c) Group of Eastern European States**

86. Asked whether the notification obligation under article 46 had been fulfilled, Croatia, Latvia, Lithuania, Montenegro, Poland, Romania and the Russian Federation confirmed that it had, while Belarus, Slovakia and the former Yugoslav Republic of Macedonia responded that it had not. Slovakia and the former Yugoslav Republic of Macedonia indicated that the Secretary-General would be notified in the near future. Slovakia reported that in the interim the authority responsible for processing requests for mutual legal assistance would be the Ministry of Justice. Belarus provided the requisite information together with its self-assessment report.

**(d) Group of Latin American and Caribbean States**

87. Asked whether the notification obligation under article 46 had been fulfilled, all respondents except Colombia, the Dominican Republic and Mexico confirmed that it had. Mexico provided the requisite information together with its

self-assessment report. Colombia deferred the matter, while the Dominican Republic provided no information (an obligatory reporting requirement).

**(e) Group of Western European and Other States**

88. Asked whether the notification obligation under article 46 had been fulfilled, Austria, Canada, Finland, Norway, Spain, the United Kingdom and the United States confirmed that it had. France and the Netherlands provided the requisite information together with their self-assessment report. Sweden stated that the Secretary-General would be notified of the central authority designated to process requests for mutual legal assistance at the time of depositing its instrument of ratification. Portugal presented information on procedures to render mutual legal assistance under a number of international treaties but did not clarify whether a central authority had been designated. Turkey provided no information (an obligatory reporting requirement).

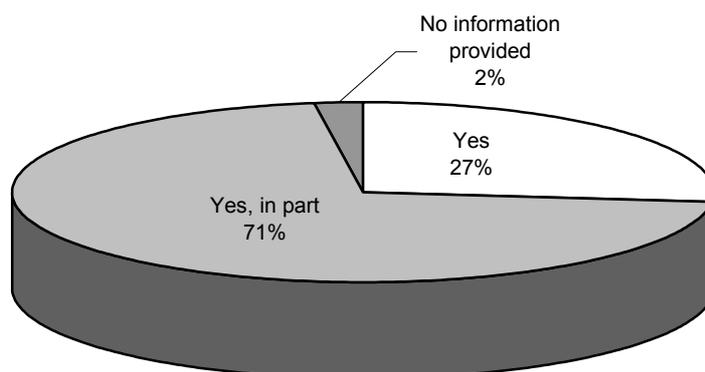
**D. Asset recovery (chapter V of the Convention)**

**1. Prevention and detection of transfer of proceeds of crime (article 52)**

89. The global implementation of article 52 of the Convention is illustrated in figure XII. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XII

**Global implementation of article 52 (reporting parties)**



**(a) Group of African States**

90. Algeria cited measures adopted to prevent and detect transfers of proceeds of crime, hence reporting full compliance with article 52, although it did not substantiate such reported compliance by providing supportive examples (an optional reporting requirement). Burkina Faso cited measures to verify the identity of customers of financial intuitions (art. 52, para. 1), issue advisories on the type of natural or legal persons to whose accounts enhanced scrutiny is to be applied (art. 52, subpara. 2 (a)) and establish financial disclosure systems for appropriate public officials (art. 52, para. 5). This information was substantiated by several

examples (an optional reporting requirement). Burkina Faso provided no information on the implementation of the rest of the article under review (an obligatory reporting requirement). Reporting on measures requiring financial institutions to verify the identity of customers and to exert enhanced scrutiny on accounts maintained by individuals entrusted with prominent public functions, Nigeria indicated the issuance of a compulsory “know-your-customer” manual for banks and other financial institutions. The manual, which had force of law, also provided for enhanced due diligence for politically exposed persons. The United Republic of Tanzania indicated partial compliance, while Nigeria indicated no compliance, with the mandatory provision of the Convention that prescribes the issuance of advisories regarding the types of natural or legal persons to whose accounts enhanced scrutiny is to be applied (art. 52, subpara. 2 (a)). The United Republic of Tanzania indicated partial compliance with the mandatory provision of the Convention prescribing the adoption of measures to prevent the establishment of banks with no physical presence and no affiliation with regulated financial groups (art. 52, para. 4). Namibia reported no compliance with the non-mandatory provision of the Convention providing for the adoption of measures to require public officials to report on financial accounts maintained in a foreign State (art. 52, para. 6). An example of a positive experience of implementation of article 52 by Nigeria is given in box 29.

Box 29

**Example of positive experience in implementing measures relating to verification of identification and enhanced scrutiny of customers of financial institutions:  
Nigeria**

**Verification of identification and enhanced scrutiny of customers of financial institutions (art. 52, para. 1)**

- **Nigeria.** A robust identification and verification regime has been put in place. This has led to the abolition of confidentiality of information in all financial transactions, thereby making access to transactions made by politically exposed persons easier. As part of the economic reform of the Government, the Central Bank of Nigeria restructured the financial sector in 2005 and consolidated the banking sector by reducing the number of banks from 89 to 25. Most of the 25 banks were inspected for anti-money-laundering purposes in 2006 and sanctions were imposed on institutions that had failed to comply with their obligations. The most frequent infractions included failure to conduct proper “know-your-customer” assessments, non-reporting and lack of training programmes.

**(b) Group of Asian and Pacific States**

91. Indonesia and the Philippines cited measures adopted to prevent the transfer of proceeds of crime, thus reporting implementation of article 52. Bangladesh, Jordan and Kyrgyzstan reported partial implementation. Assessing measures to verify the identity of and apply enhanced scrutiny to customers of financial institutions (art. 52, para. 1), Bangladesh and Kyrgyzstan indicated partial compliance with the Convention. Indonesia, reporting compliance, cited a large number of laws, stating that the application of the “know-your-customer” principle was expanding and that

an increasing number of suspicious transactions were being reported. Indicating full compliance with the same provision, the Philippines cited Republic Act No. 9160, which laid down the requirements for customer identification. Kyrgyzstan presented information on its Law on Combating Money-Laundering and Terrorism Financing (2006) and assessed its compliance with article 52 as partial. To bridge the gap, Kyrgyzstan reported that laws and regulations for financial institutions were being drafted, including detailed provisions on suspicious transactions to be reported to the financial intelligence unit established by Presidential Decree No. 352 (2006). Bangladesh reported that no advisories had been issued to financial institutions regarding the types of natural or legal persons to whose accounts enhanced scrutiny had to be applied (art. 52, subpara. 2 (a)). Indonesia, Jordan and the Philippines cited measures providing for such advisories, although Indonesia did not provide substantiating examples (an optional reporting requirement). Reporting on measures to notify financial institutions of the identity of particular natural or legal persons to whose accounts enhanced scrutiny is to be applied (art. 52, subpara. 2 (b)), Indonesia and the Philippines indicated full compliance with the Convention and Bangladesh reported partial compliance, while Jordan reported no adoption of such measures. All reporting parties except Bangladesh and Kyrgyzstan indicated compliance with measures requiring financial institutions to maintain adequate records (art. 52, para. 3). All reporting parties except Kyrgyzstan reported compliance of measures preventing the establishment of banks with no physical presence or affiliation to a regulated financial group (art. 52, para. 4). Providing more detailed information, Jordan indicated that instructions issued by the Central Bank to combat money-laundering and terrorism financing included a definition of fictitious banks and specific instructions on how to deal with correspondent banks. Similarly, by Circular No. 436 implementing the Republic Act No. 9160, the Philippines prohibited financial institutions from entering into, or continuing, a correspondent banking relationship with shell banks as well as establishing relations with respondent foreign financial institutions that permitted their accounts to be used by shell banks. All reporting parties except Jordan and Kyrgyzstan (partial compliance) indicated full compliance with the non-mandatory provision of the Convention prescribing the establishment of financial disclosure systems for appropriate public officials (art. 52, para. 5). All reporting parties except Kyrgyzstan indicated full compliance with the non-mandatory provision of the Convention providing for the adoption of measures to require public officials to report on financial accounts maintained in a foreign State (art. 52, para. 6). Examples of positive implementation of article 52 of the Convention by Bangladesh and Indonesia are described in box 30.

Box 30

**Example of positive experience in implementing measures relating to establishment of financial disclosure systems and sanctions for non-compliance: Bangladesh and Indonesia**

**Establishment of financial disclosure systems for appropriate public officials and sanctions for non-compliance (art. 52, para. 5)**

- **Bangladesh.** Under the Emergency Power Ordinance 2007, wealth statements have been requested from a wide range of senior public officials including the former Secretary of Energy, Power and Mineral Resources. The Ordinance provides for a maximum period of five years of imprisonment for

non-compliance.

- **Indonesia.** Although not all of the 116,000 public officials obliged to report have submitted their financial disclosures, the trend to comply is steadily increasing. In 2001, the compliance rate was 40 per cent and at the time of reporting it is higher than 60 per cent. State officials, judges, governors and prosecutors are obliged to report.

**(c) Group of Eastern European States**

92. Out of the 10 reporting parties, Belarus, Croatia, Latvia and Montenegro reported full implementation of measures to prevent and detect the transfer of proceeds of crime. While reporting full implementation, Croatia stated that no domestic law was specifically designed to regulate the matter of asset recovery but that other laws on money-laundering and related matters were equally adequate and applicable by extension. No substantiating example of such adequacy was provided (an optional reporting requirement). Lithuania, Poland, Romania, the Russian Federation, Slovakia and the former Yugoslav Republic of Macedonia reported partial implementation of article 52. Lithuania, Romania and the Russian Federation indicated partial adequacy of measures requiring financial institutions to verify the identity of customers and to apply enhanced scrutiny to accounts maintained by people entrusted with prominent public functions (art. 52, para. 1). In relation to the same provision, all the other reporting States parties cited, quoted or provided copies of measures providing for the identification of customers of financial institutions and assessed such measures as fully compliant with the Convention. Conversely, Lithuania, Romania and the former Yugoslav Republic of Macedonia indicated that initial steps had been taken (Romania) or measures had been recently adopted (Lithuania and the former Yugoslav Republic of Macedonia) to apply enhanced scrutiny to accounts maintained by politically exposed persons. While reporting compliance, the passages of the anti-money-laundering law quoted by Belarus did not clarify whether measures had been adopted to apply enhanced scrutiny to accounts maintained by prominent public officials. Poland reported that its relevant legislation did not fully reflect the letter of the Convention. In fact, although financial institutions were obliged to identify their customers, there was no obligation to verify their identity. Furthermore, no specific regulation provided for enhanced scrutiny of accounts maintained by public officials. Fulfilling an optional reporting requirement, Lithuania indicated that full compliance with the provision under review would be facilitated by the implementation of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorism financing.<sup>10</sup> All reporting parties except Lithuania indicated that advisories in accordance with the Convention had been issued on natural or legal persons subject to enhanced scrutiny by financial institutions (art. 52, subpara. 2 (a)). In that connection, Croatia cited relevant laws without providing examples of their effectiveness (an optional reporting requirement) while Latvia, Poland and, to a lesser extent, the former Yugoslav Republic of Macedonia, provided detailed accounts of bodies and procedures for the issuance of regulations and guidelines to financial institutions. Only Poland provided an example of

<sup>10</sup> *Official Journal of the European Union*, L 309 of 25 November 2005.

successful use of measures providing for the issuance of such advisories. Lithuania, which reported partial compliance with the provision under review, Montenegro and Romania, which reported full compliance, cited a number of laws but did not present information on their specific application to provide for the issuance of advisories for financial institutions. Slovakia, while reporting full implementation of the provision under review, mentioned that non-binding, and thus non-enforceable, guidelines had been issued. Belarus, Croatia, Latvia, Montenegro, Poland, Romania and the former Yugoslav Republic of Macedonia reported that measures in compliance with the Convention had been adopted to notify financial institutions of the identity of account holders subject to enhanced scrutiny (art. 52, subpara. 2 (b)). Only Poland provided a supportive example. Belarus reported passages of legislation that did not clarify whether financial institutions were indeed notified of the identity of persons to whose accounts enhanced scrutiny had to be applied. Lithuania, the Russian Federation and Slovakia reported partial implementation of the provision under review. All reporting parties assessed their legislation as fully consistent with the provision of the Convention prescribing that financial institutions should maintain adequate records (art. 52, para. 3). All of them quoted, while Montenegro cited, relevant laws. Only Latvia and Poland provided examples of the effectiveness of such laws. All respondents indicated full implementation of measures to prevent the establishment of banks having no physical presence or affiliation to a regulated financial group (art. 52, para. 4). All except Lithuania and Montenegro quoted passages of domestic legislation. Lithuania stated full implementation and provided no further information (an obligatory reporting requirement). Belarus quoted, while Montenegro cited, laws on the prevention of money-laundering and terrorism financing (respectively, No. 426 of 19 July 2000 and Nos. 55/03, 58/03 and 17/05) without elaborating on their specific ability to prevent the establishment of shell banks (an optional reporting requirement). All reporting parties except Lithuania reported the adoption of measures establishing financial disclosure systems for relevant public officials and sanctions for non-compliance (art. 52, para 5). Croatia and Montenegro cited and Belarus quoted laws, without providing information on their capacity to establish such financial disclosure systems (an optional reporting requirement). Lithuania, Poland, Slovakia and the former Yugoslav Republic of Macedonia did not present information on the sanctions for non-compliance with the financial disclosure obligation by relevant public officials (an optional reporting requirement). Belarus, Croatia, Latvia, Montenegro, Romania and the Russian Federation indicated full implementation of the non-mandatory provision of the Convention urging the adoption of measures requiring public officials to report on financial accounts maintained in a foreign State (art. 52, para. 6). In relation to the same provision, Lithuania and Slovakia reported partial implementation, while Poland and former Yugoslav Republic of Macedonia reported no implementation. Examples of positive implementation of article 52 of the Convention by Latvia are described in boxes 31 and 32.

Box 31

**Example of positive experience in implementing measures relating to prevention and detection of transfer of proceeds of crime: Latvia**

**Prevention and detection of transfer of proceeds of crime (art. 52)**

- **Latvia.** In 2006, the Control Service forwarded to the Prosecutor's Office 155 reports of suspicious transactions in accordance with the law and

regulations issued by the Finance and Capital Market Commission. At Latvia's initiative, experts of the International Monetary Fund (IMF) visited the country in March 2006 to assess compliance of the systems to prevent the laundering of proceeds of crime with the recommendations of the Financial Action Task Force on Money Laundering. The IMF representatives concluded that owing to the application of various preventive measures the risk of money-laundering in Latvia had been significantly reduced and that relevant legislation was close to full compliance with best international standards.

Box 32

**Example of positive experience in implementing measures relating to establishment of financial disclosure systems and sanctions for non-compliance: Latvia**

**Financial disclosure for appropriate public officials and sanctions for non-compliance (art. 52, para. 5)**

- **Latvia.** A total of 78,771 financial disclosure declarations were received from public officials in 2005 and 78,937 were received in 2006. Administrative liability for failure to submit declarations or for stating false information was imposed on 354 public officials in 2006 and on 332 in 2005. In 2006, 34 criminal proceedings against public officials were initiated.

**(d) Group of Latin American and Caribbean States**

93. Out of the 12 reporting parties, Brazil reported full implementation of article 52, while Argentina, Bolivia, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Mexico, Paraguay, Peru and Uruguay reported partial compliance with the measures under the Convention to prevent and detect the transfer of proceeds of crime. With regard to measures to verify the identity of and apply enhanced scrutiny to customers of financial institutions (art. 52, para. 1), all reporting parties except Argentina, Bolivia, the Dominican Republic, El Salvador and Peru (partial implementation) reported full implementation. While all the parties that reported compliance cited, quoted, annexed or gave a description of relevant legislation or other measures, only Costa Rica provided examples of successful implementation of such measures. Argentina, reporting partial implementation of the provisions under review, indicated that its system of strengthened oversight for politically exposed persons needed to be improved in order to allow for the prompt identification of all national and regional politically exposed persons performing administrative, legislative or judicial functions. Bolivia reported the establishment of a financial intelligence unit responsible for detecting suspicious transactions and recognized room for improvement of its system to strengthen oversight for politically exposed persons. The Dominican Republic mentioned relevant legislation providing for the identification of customers of financial institutions and reporting of high-value and suspicious transactions, without elaborating on measures to strengthen oversight for politically exposed persons. Assessing their systems to prevent and detect the transfer of proceeds of crime, El Salvador and Peru also recognized room for improvement. Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Mexico and Peru reported that advisories had been issued to

financial institutions regarding the types of natural or legal persons to whose accounts enhanced scrutiny was to be applied (art. 52, subpara. 2 (a)). Argentina, Bolivia, El Salvador, Paraguay and Uruguay reported partial compliance with the provision under review. While reporting partial compliance, Argentina provided examples of successful cooperation between the Central Bank and the financial intelligence unit in relation to such advisories. Reporting on measures to notify financial institutions of the identity of particular natural or legal persons to whose accounts enhanced scrutiny was to be applied (art. 52, subpara. 2 (b)), Brazil, Chile, Costa Rica, the Dominican Republic, Mexico and Peru reported full implementation of such measures; Argentina and Paraguay reported partial implementation; and Bolivia, Colombia, El Salvador and Uruguay reported that no such measures had been adopted. Out of the parties that reported compliance with the Convention, only Mexico provided examples to substantiate its statement. All respondents except Bolivia (partial compliance) and Chile (no compliance) indicated that measures requiring financial institutions to maintain adequate records (art. 52, para. 3) had been adopted in accordance with the Convention. While reporting no compliance, Chile quoted legislation requesting entities responsible for reporting suspicious transactions to keep adequate records for five years. All reporting parties except Argentina, Bolivia and Uruguay (partial implementation) and Chile (no implementation) indicated full compliance of measures preventing the establishment of banks with no physical presence or affiliation to a regulated financial group (art. 52, para. 4). Argentina, reporting partial compliance with the provision under review, described measures governing the establishment of financial institutions. Uruguay, reporting that no banks without physical presence existed in the country and that the establishment of foreign banks was subject to registration with the Central Bank, added that a more rigorous legislation for foreign banks was being drafted. Brazil, Chile, Colombia, Mexico, Peru and Uruguay reported full compliance, Argentina, Costa Rica, the Dominican Republic, El Salvador and Paraguay reported partial compliance, while Bolivia reported no compliance, with the non-mandatory provision of the Convention prescribing the establishment of financial disclosure systems for appropriate public officials (art. 52, para. 5). Argentina described its computer-assisted system of asset declaration for public officials, stating that information contained therein could be made available to a foreign court upon request. Argentina also noted the need to extend the system of asset declaration to public officials of provincial and local entities. While stating that systems of financial disclosure for public officials had been adopted, Chile did not assess their compliance with the Convention (an obligatory reporting requirement). Assessing the same systems, Costa Rica and Paraguay cited relevant legislation, but indicated that amendments would be necessary. All respondents except Bolivia, Brazil, Colombia, Peru (full compliance) and Uruguay (no compliance) reported partial compliance with the non-mandatory provision of the Convention prescribing the adoption of measures to require public officials to report on financial accounts maintained in a foreign State (art. 52, para. 6). Chile provided no information (an obligatory reporting requirement). Argentina, Costa Rica and the Dominican Republic provided an overview of relevant legislation indicating the need to amend it. Paraguay explained that the reported partial compliance with the provision under review was due to the fact that no sanctions had been introduced in case of failure to comply with the obligation to report on financial accounts maintained abroad by a public official. Examples of positive implementation of article 52 of the Convention by Argentina, Costa Rica and Mexico are described in box 33.

Box 33

**Examples of positive experience in implementing measures relating to prevention and detection of transfer of proceeds of crime: Argentina, Costa Rica and Mexico****Prevention and detection of transfer of proceeds of crime (art. 52, para. 1)**

- **Argentina.** The Central Bank publishes a list of politically exposed persons on the Internet.
- **Costa Rica.** Financial institutions are obliged to employ at least one person (and one substitute) for the full time scrutiny of customers and of transactions without apparent economic or legal basis.
- **Mexico.** The Ministry of Finance has established a list of national and international politically exposed persons. The list is not exclusive, but it offers guidelines to financial institutions.

**(e) Group of Western European and Other States**

94. Out of the 12 reporting parties, Finland, the Netherlands and the United States reported full implementation of the article under review, while Austria, Canada, France, Norway, Portugal, Spain, Sweden, Turkey and the United Kingdom reported partial implementation of measures to prevent and detect the transfer of proceeds of crime. With regard to measures to verify the identity of and apply enhanced scrutiny to customers of financial institutions (art. 52, para. 1), all reporting parties but France, Norway and Sweden (partial implementation) reported full implementation. France assessed its domestic measures as partly compliant because they did not provide for strengthened oversight of politically exposed persons. Reportedly, harmonization with the Convention would be completed by the end of 2007. While quoting measures to implement the provision under review, Spain did not assess its level of compliance (an obligatory reporting requirement). Norway reported passage of its anti-money-laundering law while Sweden annexed its Act on Measures against Money-Laundering. Both laws provided for financial institutions to verify the identity of their customers. However, such laws did not provide for enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who were, or had been, entrusted with prominent public functions. Norway stated that such measures would be adopted in 2008 by amending the Anti-Money-Laundering Act. Likewise, Sweden reported that the bill containing proposals on necessary amendments would be submitted to the Parliament in March 2008. Out of the States that reported compliance, Canada provided a detailed account of its Proceeds of Crime (Money-Laundering) and Terrorist Financing Act, amended in December 2006. Canada also presented information on the functions of its financial intelligence unit (the Financial Transactions and Reports Analysis Centre of Canada, FINTRAC) and of the Office of the Superintendent of Financial Institutions. These were the two key supervisory departments responsible for monitoring transactions carried out by financial institutions. Austria reported that no advisories had been issued to financial institutions regarding the types of natural or legal persons to whose accounts enhanced scrutiny was to be applied (mandatory provision in accordance with art. 52, subpara. 2 (a)) while Spain provided no information (an obligatory reporting requirement). France, Norway and Sweden reported partial compliance with the provision under review. Sweden indicated that amendments of

relevant legislation were under way. Assessing measures to notify financial institutions of the identity of specific natural or legal persons to whose accounts enhanced scrutiny was to be applied (art. 52, subpara. 2 (b)) Finland, the Netherlands, Portugal, the United Kingdom and the United States reported the adoption of measures in accordance with the Convention; Norway and Sweden reported partial adoption; Austria, Canada and France reported that no such measures had been adopted; and Spain and Turkey provided no information (an obligatory reporting requirement). Fulfilling an optional reporting requirement, Finland specified that it was standard procedure for its financial intelligence unit to provide financial institutions with specific instructions on cases requiring enhanced scrutiny. Sweden stated that amendments to ensure full compliance with the provision under review were under way. All reporting parties except Norway (partial compliance) and Spain (no information provided in relation to an obligatory reporting requirement) indicated that measures requiring financial institutions to maintain adequate records (art. 52, para. 3) had been implemented. However, while reporting partial implementation, Norway cited passages of the Anti-Money-Laundering Act providing for financial institutions to retain copies of necessary documentation for five years after termination of customer relationships or after transactions had been carried out. Canada, Finland, Portugal and the United States cited passages of relevant laws providing for retention of records for a minimum of five years following any transaction. Turkey reported that its financial institutions had to retain such records for a minimum of eight years. All reporting parties except France (partial implementation) and Spain (no information provided in relation to an obligatory reporting requirement) indicated full compliance with measures preventing the establishment of banks with no physical presence or affiliation to a regulated financial group (art. 52, para. 4). France stated that the upcoming domestic implementation of the third European Union Directive on money-laundering and terrorism financing<sup>10</sup> would ensure full compliance with the provision under review. Austria, the Netherlands, Norway, Sweden, Turkey and the United Kingdom cited domestic legislation in compliance with the provision under review but did not provide examples to substantiate their effectiveness (an optional reporting requirement). Portugal, reporting full implementation, cited passage of Law No. 11 of 2004 on the Prevention and Repression of Money-Laundering but did not elaborate on the ability of the law to prevent the establishment of shell banks. Assessing their legislation against the specific terms of the Convention and fulfilling optional reporting provisions, Canada reported that the Proceeds of Crime (Money Laundering) and Terrorist Financing Act prohibited financial institutions from entering directly or indirectly into correspondent banking relationships with shell banks; Finland stated that banks licensed by the Finnish Banking Supervision Office were required to have a physical presence in Finland; and the United States reported that the USA PATRIOT Act prohibited financial institutions from providing correspondent accounts in the United States to foreign banks that did not have a physical presence in any country ("foreign shell banks"). The Act of the United States also required financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks were not used to provide banking services indirectly to foreign shell banks. Examples of positive experience of implementation of article 52 of the Convention by Canada, Finland, France, Turkey and the United States are described in boxes 34-39.

## Box 34

**Examples of positive experience in implementing measures relating to prevention and detection of transfer of proceeds of crime: Finland, France and Turkey****Prevention and detection of transfer of proceeds of crime (art. 52)**

- **Finland.** The number of transactions reported to the financial intelligence unit has steadily increased, from 186 in 1998 to 3,661 in 2006, with a peak of 9,975 in 2006. The peak is due to the capacity introduced in 2006 to report transactions electronically. As at June 2007, 7,536 transactions had been reported.
- **France.** The Information Processing and Action against Secret Financial Circuits (TRACFIN) is the French financial intelligence unit that reports suspicious transactions to judicial authorities. The attention of TRACFIN was drawn to movements of funds through accounts opened in France by a person vested with public functions in a foreign State and by one of his close relatives, both in the category of “politically exposed persons”. The individual concerned received sums totalling almost Euros 100,000 from two French companies. TRACFIN concluded such funds could represent secret remuneration following the award of a procurement contract. The companies had obtained contracts in the State where the public official was posted, as well as in neighbouring States, for the installation of computer systems in various ministries. During the same period, accounts maintained by a relative of the foreign public official concerned received exceptionally large cash deposits (almost Euros 1 million in a few months). TRACFIN reported the case to judicial authorities. Criminal proceedings are under way against the French companies and the senior foreign official, who are respectively charged with active and passive bribery of foreign public officials.
- **Turkey.** Since its establishment in 1997, the Turkish financial intelligence unit has received 2,475 reports of suspicious transactions.

## Box 35

**Example of positive experience in implementing measures relating to verification of identity and enhanced scrutiny of customers of financial institutions: Canada****Verification of identity and enhanced scrutiny of customers of financial institutions (art. 52, para 1)**

- **Canada.** The Proceeds of Crime (Money Laundering) and Terrorist Financing Act has been amended to prescribe risk-based requirements regarding politically exposed foreign persons. The requirements are concentrated in sectors that are more at risk to be exploited by such persons and to the types of transactions that could potentially allow them to move misappropriated funds from one country to another. The Act requires financial institutions to determine whether a client is a politically exposed foreign person in prescribed circumstances, obtain senior management approval and take other prescribed measures.

## Box 36

**Examples of positive experience in implementing measures relating to issuance of advisories to financial institutions: Turkey and United States****Issuance of advisories to financial institutions (art. 52, subparagraph 2 (a))**

- **Turkey.** The Turkish financial intelligence unit issues mandatory communiqués. Four were issued between 1997 and 2002. These related to suspicious transaction reporting (2 instances); customer identification (1 instance); and customer identification, internal controls and training programmes.
- **United States.** The Treasury Department's Financial Crimes Enforcement Network (FinCEN) has a public website (<http://www.fincen.gov/index.html>) that provides a wealth of information regarding the Network's work and applicable United States anti-money-laundering laws and regulations, including matters relating to regulations on the types of customers and accounts that are subject to enhanced scrutiny, and related record-keeping requirements.

## Box 37

**Examples of positive experience in implementing measures relating to prevention of establishment of shell banks: Canada and United States****Prevention of establishment of "shell" banks (art. 52, para. 4)**

- **Canada.** The Office of the Superintendent of Financial Institutions looks for evidence that banks have requested information and documentation from a respondent bank in order to verify, among other things, that the respondent is a regulated bank, is not a shell bank and does not deal directly or indirectly with shell banks.
- **United States.** The banking regulators continuously monitor and issue public advisories regarding any entity engaged in unauthorized banking activity (including shell banks).

95. All reporting parties except Norway (no compliance) and Sweden (partial compliance) indicated full compliance with the non-mandatory provision prescribing the establishment of financial disclosure systems for appropriate public officials (art. 52, para. 5). Spain and the United Kingdom did not provide a report (an obligatory reporting requirement). While indicating full compliance, Turkey did not cite (an obligatory reporting requirement) and Austria did not provide information (an optional reporting requirement) on measures related to such financial disclosure systems. Sweden, reporting partial compliance, explained that following the ratification of the Convention no additional measures had been adopted owing to the fact that the fundamental and pre-existing principle of public access to documents and records rendered information on individuals' financial status of public domain. Finland, the Netherlands and the United States quoted constitutional (Finland), federal (the United States) or other legislative measures providing for financial disclosure by appropriate public officials and sanctions for

failure to comply. Portugal, while reporting full compliance and quoting passages of the Law on the Prevention and Repression of Money-Laundering (2004), did not elaborate on the specific ability of the law to comply with the Convention provisions by establishing financial disclosure systems for appropriate public officials. Canada, Finland, the Netherlands, Sweden, Turkey and the United States reported implementation of the non-mandatory provision of the Convention providing for the adoption of measures to require public officials to report on financial accounts maintained in a foreign State (art. 52, para. 6). Austria, France, Norway and Portugal reported no implementation of such measures while Spain and the United Kingdom did not report (an obligatory reporting requirement). Only the United States provided a detailed overview of relevant measures whose effectiveness was substantiated by a number of examples of case law.

Box 38

**Examples of positive experience in implementing measures relating to financial disclosure systems and sanctions for non-compliance: Canada and United States**

**Financial disclosure for appropriate public officials and sanctions for non-compliance (art. 52, para. 5)**

- **Canada.** The Values and Ethics Code requires that public servants submit a confidential report outlining their assets, receipts, liabilities and other benefits that could give rise to a conflict of interest. In situations where it is determined that public servants are in a conflict of interest, the Code identifies such measures as divestment of assets, usually achieved by selling those assets through an arm's-length transaction or by making them subject to a blind trust arrangement.
- **United States.** The United States Code Appendix requires all senior officials of the federal Government – including the President of the United States, the Vice President and approximately 20,000 other senior Government officials – to file a personal disclosure report. Copies of those reports are available upon request to anyone in the world, including foreign Governments. Failure to file, or filing a false financial disclosure report, is subject to applicable administrative, civil or criminal penalties. United States law requires financial disclosure on a confidential basis for public officials in the executive branch who do not hold senior positions but who do hold positions with a higher risk of conflict of interest. Although those reports are not available to the public they could be provided to a foreign country on a case-by-case basis pursuant to a mutual legal assistance request. In an example of case law, Department of the Interior employee Roger G. Stillwell pled guilty in June 2006 to falsely certifying his Executive Branch Confidential Financial Disclosure Report, and was sentenced to six months of probation.

Box 39

**Example of positive experience in implementing measures relating to reporting by appropriate officials of foreign financial accounts: United States**

**Requiring appropriate officials to report foreign financial accounts (art. 52, para. 6)**

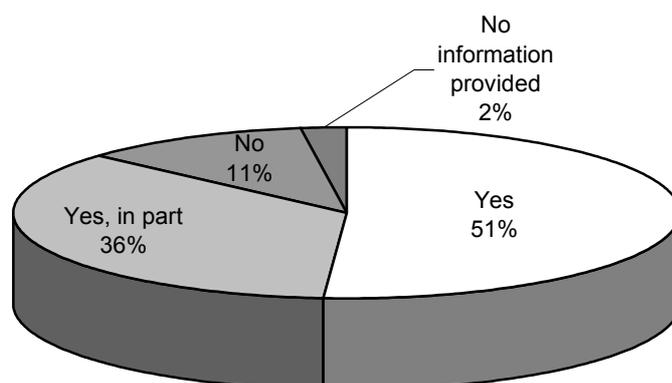
- **United States.** According to the United States Code of Federal Regulations, persons subject to United States jurisdiction having a financial interest or control over a foreign account are required to report that relationship to the Commissioner of Internal Revenue and to maintain records related to such accounts for five years. The law on financial disclosure for public officials – including the President of the United States, the Vice President of the United States and approximately 20,000 other senior government officials – makes no distinction between assets held inside or outside the United States, and thus includes foreign financial accounts consistent with article 52, paragraph 6, of the Convention. The filer must also report the source and amount of investment and non-investment income in excess of \$200, regardless of whether the source of that income is within or outside the United States. Financial disclosure reports of this nature are required upon entry into a senior position, annually and at the termination of service. Copies of those reports are available upon request to anyone in the world, including foreign countries. Failure to file, or filing a false financial disclosure report, is subject to applicable administrative, civil and criminal penalties.

**2. Measures for direct recovery of property (article 53)**

96. The global implementation of article 53 of the Convention is illustrated in figure XIII. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XIII

**Global implementation of article 53 (reporting parties)**



**(a) Group of African States**

97. Asked whether the measures prescribed by article 53 had been adopted, Algeria and Burkina Faso confirmed that they had. Burkina Faso provided no further information (an obligatory reporting requirement). Algeria cited domestic measures, without providing examples to substantiate their effectiveness (an optional reporting requirement). Nigeria reported that no measures had been adopted to permit another State party to initiate civil action in its courts (art. 53, subpara. (a)). The United Republic of Tanzania indicated partial adoption of measures to permit its courts to order those who have committed offences of corruption to pay compensation to another State party harmed by such offences (art. 53, subpara. (b)) and of measures to permit its courts to recognize another State party's claim as a legitimate owner of property acquired through the commission of an offence of corruption (art. 53, subpara. (c)).

**(b) Group of Asian States**

98. Out of the five reporting parties, only Indonesia indicated full compliance with article 53, although no relevant cases had been recorded to date. Assessing measures to permit another State party to initiate civil action in their courts, Bangladesh and Kyrgyzstan reported partial compliance with the relevant provision of the Convention (art. 53, subpara. (a)) and indicated that work was under way to ensure full compliance. Assessing compliance with the same mandatory provision, Jordan and the Philippines reported that no domestic measures had been adopted. Reporting on compliance with the mandatory provisions of the Convention providing for measures to permit domestic courts to order those who have committed offences of corruption to pay compensation to another State party harmed by such offences (art. 53, subpara. (b)) and measures to permit domestic courts to recognize another State party's claim as a legitimate owner of property acquired through the commission of an offence of corruption (art. 53, subpara. (c)), Bangladesh, Jordan and the Philippines indicated that no such measures had been adopted. In relation to the same provisions, Kyrgyzstan indicated partial adoption of the necessary measures and, fulfilling an optional reporting requirement, added that both the Civil and the Criminal Procedure Codes were being amended.

**(c) Group of Eastern European States**

99. Out of the 10 reporting parties, Belarus, Croatia, Latvia, Montenegro, Poland, Romania and Slovakia reported full implementation of measures providing for the direct recovery of assets, while Lithuania, the Russian Federation and the former Yugoslav Republic of Macedonia reported partial implementation. All reporting parties except the Russian Federation (partial implementation) reported full implementation of measures permitting another State party to initiate civil action in their courts to establish title or ownership of property acquired through the commission of an offence of corruption (art. 53, subpara. (a)). While all reporting parties cited or quoted relevant passages of their civil or criminal procedure codes, only Belarus, Latvia, Lithuania, Romania and Slovakia provided information on the specific ability of such codes to comply with the requirements of the Convention. Montenegro, while reporting full implementation, did not cite any relevant measure that had been adopted (an obligatory reporting requirement). None of the reporting parties provided examples to substantiate the successful implementation of the

provision under review (an optional reporting requirement). Slovakia elaborated by stating that no such cases had been recorded. All reporting parties except the Russian Federation (partial implementation) and the former Yugoslav Republic of Macedonia (no implementation) indicated full implementation of measures to permit domestic courts to order those who had committed offences of corruption to pay compensation to another State party harmed by such offences (art. 53, subpara. (b)). While parties that reported compliance cited or quoted relevant passages of domestic legislation, none of them provided examples to substantiate such stated compliance (an optional reporting requirement). Slovakia, reporting in a more detailed manner, specified that the general obligation to pay damages existed under the law on compensation for damages to victims of criminal offences (Law No. 215 of 2006). However, such an obligation was not intended to compensate States. All reporting parties except Lithuania, the Russian Federation (both stated partial compliance) and the former Yugoslav Republic of Macedonia (no compliance) reported full implementation of measures to permit domestic courts to recognize another State party's claim as a legitimate owner of property acquired through the commission of an offence of corruption (art. 53, subpara. (c)). Out of the parties that reported compliance, only Romania provided information on its relevant legislation, while none of them provided examples to substantiate their statements (an optional reporting requirement).

**(d) Group of Latin American and Caribbean States**

100. Out of the 12 reporting parties, Paraguay and Peru reported full implementation of measures providing for the direct recovery of assets, while Argentina, Bolivia, Brazil, the Dominican Republic, El Salvador, Mexico and Uruguay reported partial implementation. Chile, Colombia and Costa Rica reported no implementation. Bolivia, Brazil, Mexico, Paraguay and Peru reported full implementation of measures permitting another State party to initiate civil action in their courts to establish title or ownership of property acquired through the commission of an offence of corruption (art. 53, subpara. (a)). The Dominican Republic and El Salvador reported partial implementation of such measures, while Argentina, Chile, Colombia, Costa Rica and Uruguay reported no implementation. The respondents that cited or quoted relevant passages of their civil or criminal procedure codes did not provide examples to substantiate their statements (an optional reporting requirement). Assessing the adequacy of its Penal Code, El Salvador indicated that the law did not provide for civil action to be initiated independently of criminal action. Brazil, Paraguay and Peru reported full implementation of measures to permit domestic courts to order those who had committed offences of corruption to pay compensation to another State party harmed by such offences (art. 53, subpara. (b)). Argentina and the Dominican Republic reported partial implementation of such measures, while all the other respondents indicated no implementation. Argentina presented information on the partial compliance of its legislation on the restitution or compensation to the aggrieved party, while the Dominican Republic added that the implementation of the provision under review required the conclusion of international agreements. Peru, reporting implementation of the provision under review, stated that no cases had been recorded to date. Reporting on the implementation of measures to permit domestic courts to recognize another State party's claim as a legitimate owner of property acquired through the commission of an offence of corruption (art. 53,

subpara. (c)), Argentina, Paraguay, Peru and Uruguay reported the adoption of measures in compliance with the Convention, Bolivia, Brazil, the Dominican Republic and Mexico reported partial compliance, while Chile, Colombia, Costa Rica and El Salvador indicated that no such measures had been adopted. Reporting partial compliance with the provision under review, Bolivia and Mexico stated that necessary legislative amendments were under way. The Dominican Republic reported that the implementation of the provision under review required the conclusion of international agreements.

**(e) Group of Western European and Other States**

101. Out of the 12 reporting parties, 10 indicated full implementation of measures providing for direct recovery of property. Turkey reported partial implementation, while Spain provided no information on the implementation of the entire article under review (an obligatory reporting requirement). All the parties that reported compliance stated that civil procedure norms provided for another State party to initiate civil action in their courts to establish title or ownership of property acquired through the commission of an offence of corruption (art. 53, subpara. (a)). However, no concrete cases were recorded by any of the parties that reported compliance. All 11 parties reporting on the provision indicated full implementation of measures to permit domestic courts to order those who had committed offences of corruption to pay compensation to another State party harmed by such offences (an obligatory provision under article 53, subpara. (b)). All parties that reported compliance except Turkey (no implementation) indicated that measures were in place to permit their domestic courts to recognize another State party's claim as a legitimate owner of property acquired through the commission of an offence of corruption (art. 53, subpara. (c)). Examples of positive experience of implementation of article 53 of the Convention by the United Kingdom and the United States are described in box 40.

Box 40

**Examples of positive experience in implementing measures relating to measures for direct recovery of property: United Kingdom and United States**

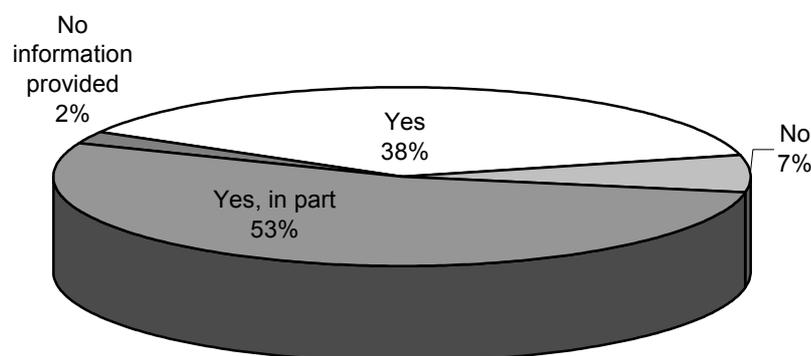
**Measures for direct recovery of property (art. 53)**

- **United States.** In July 2007, the United States Justice Department filed a civil complaint in federal court in Miami seeking the forfeiture of approximately \$110 million in proceeds from Italian public corruption offences that were allegedly laundered in the United States.
- **United Kingdom.** Over US\$ 3 million was returned to Nigeria following two proceedings against politically exposed persons.

**3. Mechanisms for recovery of property through international cooperation for the purposes of confiscation (article 54)**

102. The global implementation of article 54 of the Convention is illustrated in figure XIV. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XIV  
Global implementation of article 54 (reporting parties)



**(a) Group of African States**

103. Algeria, Burkina Faso, Namibia and Nigeria cited domestic measures to establish mechanisms for the recovery of property through international cooperation for the purposes of confiscation, thus reporting full compliance with the article under review. Algeria, Burkina Faso and Namibia provided no substantiating examples of successful application of such measures (an optional reporting requirement). Nigeria referred to “several successful uses” under the Foreign Judgment (Reciprocal Enforcement) Act (2004). The United Republic of Tanzania indicated partial implementation of measures to permit its competent authorities to give effect to orders of confiscation issued by courts of another State party (art. 54, subpara. 1 (a)) and to freeze or seize property upon request (art. 54, subpara. 2 (b)).

**(b) Group of Asian States**

104. None of the reporting States parties indicated full compliance with the article under review. Reporting on measures to permit domestic competent authorities to give effect to an order of confiscation issued by a court of another party (art. 54, subpara. 1 (a)), Indonesia and the Philippines cited measures to ensure compliance without providing substantiating examples (an optional reporting requirement), Kyrgyzstan reported partial compliance, while Bangladesh and Jordan indicated that no such measures had been introduced. In relation to measures to permit domestic competent authorities to order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (art. 54, subpara. 1 (b)), Indonesia and the Philippines cited measures to achieve compliance, while Bangladesh, Jordan and Kyrgyzstan reported partial compliance. The Philippines, in application of its Anti-Money Laundering Law (Republic Act No. 9160 and its Implementing Rules and Regulations), indicated that several freezing orders of bank accounts had been issued but no records of completed and successful forfeiture were available to date. Fulfilling an optional reporting requirement, Jordan recognized the need to draft legislation on confiscation in line with the Convention. With regard to the optional requirement of enabling confiscation without criminal conviction (art. 54, subpara. 1 (c)), the Philippines provided information on its reportedly fully adequate

measures, Bangladesh cited measures of partial compliance, while Indonesia, Jordan and Kyrgyzstan indicated that no such measures had been adopted. In relation to measures to permit domestic competent authorities to freeze or seize property upon a relevant order issued by a requesting State party (art. 54, subpara. 2 (a)), Bangladesh and Jordan indicated that no such measures had been adopted, Kyrgyzstan reported partial compliance, while Indonesia and the Philippines cited fully compliant measures without providing substantiating examples (an optional reporting requirement). Reporting on measures to enable domestic competent authorities to freeze or seize property upon request by another party (art. 54, subpara., 2 (b)), Indonesia and the Philippines cited measures in full compliance, Jordan and Kyrgyzstan reported partial compliance, while Bangladesh reported that no such measures had been adopted. In relation to measures to enable competent domestic authorities to preserve property for confiscation (art. 54, subpara. 2 (c)), Indonesia reported full compliance, Jordan and Kyrgyzstan partial compliance, while Bangladesh and the Philippines reported no compliance.

**(c) Group of Eastern European States**

105. Out of the 10 reporting parties, Croatia, Latvia, Poland and the former Yugoslav Republic of Macedonia reported full implementation of the article under review, while Belarus, Lithuania, Montenegro, Romania, the Russian Federation and Slovenia reported partial implementation of mechanisms for the recovery of property through international cooperation for the purposes of confiscation. All reporting parties except the Russian Federation (partial implementation) reported full implementation of measures to permit domestic competent authorities to give effect to an order of confiscation issued by a court of another State party (art. 54, subpara. 1 (a)). All parties that reported compliance cited, quoted or annexed (Slovakia) relevant domestic legislation. Latvia, Lithuania, Poland, Romania and Slovakia provided information on the specific ability of such legislation to enable national authorities to execute an order of confiscation issued by a foreign court. Montenegro, while reporting full compliance with the provision under review, did not cite relevant measures (an obligatory reporting requirement). Out of 10 reporting parties, 8 indicated full implementation of measures to permit domestic competent authorities to order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (art. 54, subpara. 1 (b)). The Russian Federation reported partial implementation of this provision, while Montenegro provided no information (an obligatory reporting requirement). Lithuania, Poland, Romania and the former Yugoslav Republic of Macedonia provided information on the ability of their legislation to regulate confiscation of property of foreign origin. Poland substantiated its stated compliance by providing an example of case law. Out of 10 reporting parties, 6 cited or quoted domestic legislation providing for implementation of measures enabling confiscation without criminal conviction (art. 54, subpara. 1 (c)). In relation to the provision under review, Lithuania reported partial implementation, Belarus and the Russian Federation reported no implementation, while Montenegro provided no information (an obligatory reporting requirement). Out of 10 reporting parties, 9 cited or quoted measures to permit national competent authorities to freeze or seize property upon either a freezing or seizure order issued by a requesting State party (art. 54, subpara. 2 (a)) or a request by another party (art. 54, subpara. 2 (b)), thus reporting full implementation of the provisions under review. Montenegro provided no

information (an obligatory reporting requirement). All parties that reported compliance, Romania in particular, provided information on the specific capacity of national laws to comply with the terms of the Convention. Croatia, Latvia, Poland, the Russian Federation and the former Yugoslav Republic of Macedonia cited or quoted legislation providing for the implementation of additional measures to enable competent domestic authorities to preserve property for confiscation (art. 54, subpara. 2 (c)). Assessing compliance with the same provision, Lithuania and Romania reported partial implementation, while Slovakia indicated no implementation. Montenegro, while reporting full compliance, did not cite any measure (an obligatory reporting requirement). An example of a positive experience in implementing article 54 by Romania is described in box 41.

Box 41

**Example of positive experience in implementing measures relating to freezing or seizure of property: Romania**

**Freezing or seizure of property upon request (art. 54, subpara. 2 (b))**

- **Romania.** In the first six months of 2007, the Directorate for Investigation of Organized Crime and Terrorism received six requests from other States to seize proceeds of offences of human trafficking (one), credit card counterfeiting (four) and fraud (one). The requests were formulated by the Netherlands (one), France (two), Germany (two) and Italy (one). The seizure was disposed of by ordinance of the Prosecutor, in accordance with the Criminal Procedure Code.

**(d) Group of Latin American and Caribbean States**

106. Out of the 12 reporting parties, Brazil, Colombia and Paraguay reported full implementation of the article under review, while Bolivia and Costa Rica reported no implementation of mechanisms for the recovery of property through international cooperation in confiscation. The other respondents indicated partial implementation. While all parties that reported full or partial compliance cited, quoted or annexed relevant legislation, only El Salvador provided examples to substantiate its statements (an optional reporting requirement). Out of 12 reporting parties, 7 indicated full implementation of measures to permit domestic competent authorities to give effect to an order of confiscation issued by a court of another party (art. 54, subpara. 1 (a)). Providing information on its partial compliance with the provision under review, Argentina noted that the possibility for its domestic authorities to give effect to either a civil order of confiscation issued by another party or a criminal order of confiscation in the absence of the defendant were not covered by its legislation. Out of 12 reporting parties, 8 indicated implementation of measures to permit domestic competent authorities to order confiscation of property of foreign origin by adjudication of an offence of money-laundering (art. 54, subpara. 1 (b)). El Salvador provided various examples of successful application of measures adopted in compliance with the provision under review. Out of 12 reporting parties, 4 cited or quoted domestic measures enabling confiscation without criminal conviction (art. 54, subpara. 1 (c)). Indicating that legislation necessary to ensure full compliance with the provision under review had been drafted, Brazil stated that its anti-money-laundering law enabled confiscation of

assets also in cases when the prosecution of the underlying predicate offence was not possible. Mexico, reporting partial compliance with the provision under review, noted that no cases had been recorded to date. Half of the reporting parties cited or quoted measures to permit national competent authorities to freeze or seize property upon a freezing or seizure order issued by a requesting State party (art. 54, subpara. 2 (a)), thus reporting full implementation of the provisions under review. Uruguay added that no cases had been recorded to date. All the other respondents except Chile (no information provided in relation to an obligatory reporting requirement) indicated partial or no implementation. Reporting partial compliance, El Salvador recognized the need for more adequate legislation. Out of 12 reporting parties, 3 cited or quoted measures to permit national competent authorities to freeze or seize property upon a request by another party (art. 54, subpara. 2 (b)). All the other respondents except Chile (no information provided in relation to an obligatory reporting requirement) indicated partial or no implementation. Out of 12 reporting parties, 6 cited or quoted legislation providing for the full implementation of additional measures to enable competent domestic authorities to preserve property for confiscation (art. 54, subpara. 2 (c)), while Chile provided no information on the implementation of the provision (an obligatory reporting requirement). Argentina, reporting compliance with the provision under review, provided a description of its law on international cooperation in criminal matters.

**(e) Group of Western European and Other States**

107. Out of the 12 reporting parties, Canada, Norway, Portugal, Sweden, Turkey and the United States reported full implementation of mechanisms for the recovery of property through international cooperation in confiscation. Austria, Finland, France, the Netherlands and the United Kingdom reported partial implementation, while Spain provided no information on the implementation of the entire article under review (an obligatory reporting requirement). All reporting parties indicated full implementation of measures to permit domestic competent authorities to give effect to an order of confiscation issued by a court of another party (art. 54, subpara. 1 (a)). However, the majority of the parties that reported compliance stated that no case had been recorded or provided no examples to substantiate their statements (an optional reporting requirement). All of the 11 parties reporting on the article indicated full implementation of measures to permit domestic competent authorities to order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (art. 54, subpara. 1 (b)). Most of the parties that reported compliance specified that confiscation following adjudication of an offence of money-laundering was permitted regardless of the foreign origin of such property. All parties that reported on the article cited or provided information on measures enabling confiscation without criminal conviction (art. 54, subpara. 1 (c)). All those parties cited or quoted measures to permit national competent authorities to freeze or seize property upon a freezing or seizure order issued by a requesting State party (art. 54, subpara. 2 (a)) and a request by another party providing sufficient grounds that such property may be subject to confiscation (art. 54, subpara. 2 (b)), thus reporting full implementation of the provisions under review. No corruption-related cases had been recorded to date by any of the reporting States parties. Canada, Norway, Portugal, Sweden, Turkey and the United States reported, in a detailed manner, full implementation of additional measures enabling competent domestic authorities to preserve property for confiscation (art. 54, subpara. 2 (c)). The United

Kingdom, reporting partial implementation, stated that according to the Proceeds of Crime Act 2002, a management receiver could be appointed by the court to preserve the value of frozen property. All the other reporting parties indicated no compliance with the non-mandatory provision under review. An example of a positive experience in implementing article 54 by the United States is described in box 42.

Box 42

**Example of positive experience in implementing measures relating to enforcing foreign orders of confiscation and allowing confiscation without criminal conviction: United States**

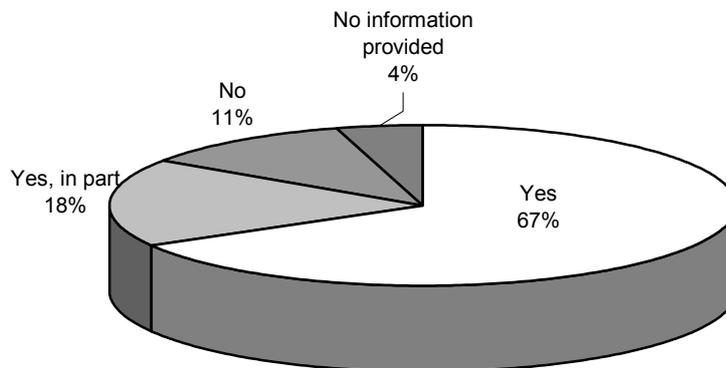
**Enforcing foreign orders of confiscation and allowing confiscation without criminal conviction (art. 54, subparas. 1(c) and 2 (a))**

- **United States.** In late 2006, United States authorities for the first time enforced a foreign restraining order (from the United Kingdom) to freeze more than \$400,000 in assets connected to a former Nigerian Governor charged with alleged corruption offences in Nigeria and money-laundering in the United Kingdom. In addition, the Justice Department recently filed an in rem forfeiture action against \$84 million allegedly traceable to illegal payments. An agreement was reached for the conditional release of those funds in favour of a foundation assisting poor children in Kazakhstan. Under the United States Code, United States courts can order in rem forfeiture in connection with a wide variety of offences, including but not limited to money-laundering, certain offences against a foreign nation and certain domestic or transnational offences related to foreign corruption, among others. In rem forfeiture is an action by the United States Government against real or personal property, not against an individual, and thus can be used in cases in which the offender cannot be prosecuted criminally or in other appropriate cases.

**4. International cooperation for purposes of confiscation (article 55)**

108. The global implementation of article 55 of the Convention is illustrated in figure XV. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XV  
Global implementation of article 55 (reporting parties)



**(a) Group of African States**

109. All five reporting States cited domestic measures adopted to foster international cooperation for purposes of confiscation. Algeria, Burkina Faso, Namibia and the United Republic of Tanzania did not provide substantiating examples of successful implementation of such measures (an optional reporting requirement), while Nigeria, in application of its International Cooperation in Criminal Matters Act, 2000, indicated “several successful uses”, “several requests for identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation” and “the submission of several requests for order of confiscation”.

**(b) Group of Asian and Pacific States**

110. Indonesia cited and the Philippines provided information on domestic measures to promote international cooperation for purposes of confiscation, hence reporting full compliance with the article under review. The former indicated that no concrete cases of application of such measures had been recorded, while the latter provided no substantiating examples (an optional reporting requirement). Jordan cited and Kyrgyzstan quoted measures partly compliant with the Convention, while Bangladesh reported lack of compliance with the entire article. Kyrgyzstan added that necessary amendments to the Criminal Procedure Code were being drafted.

**(c) Group of Eastern European States**

111. Out of the 10 reporting parties, all except Romania, the Russian Federation and the former Yugoslav Republic of Macedonia reported full implementation of measures fostering international cooperation for purposes of confiscation. All parties except Romania and the Russian Federation (partial implementation) provided information on domestic measures enabling competent national authorities to give effect to a request for confiscation received by another State party (art. 55, para. 1). Fulfilling an optional reporting requirement, Latvia stated that up to 30 such requests were received and processed on an annual basis. All reporting parties except the Russian Federation (partial implementation) and the former

Yugoslav Republic of Macedonia (no implementation) cited or provided information on measures adopted to identify, trace and freeze proceeds of crime upon a request by another State party (art. 55, para. 2). Only Latvia substantiated its statement by providing a relevant example (an optional reporting requirement). All reporting parties except the Russian Federation and the former Yugoslav Republic of Macedonia indicated full implementation of measures detailing the content of a request for confiscation to be submitted to another State party (art. 55, para 3). All parties that reported compliance except Croatia and Slovakia provided a detailed account of legislation regulating the matter. Belarus quoted passages of legislation immaterial to the terms of the provision under review.

**(d) Group of Latin American and Caribbean States**

112. Out of the 12 reporting parties, Brazil, Colombia, the Dominican Republic, Paraguay, Peru and Uruguay indicated full compliance with the article under review. Argentina, Chile and Mexico reported partial compliance, while Bolivia, Costa Rica and El Salvador stated that no measures had been adopted to foster international cooperation for purposes of confiscation. Assessing measures to enable competent national authorities to give effect to a request for confiscation received by another State party (art. 55, para. 1); identify, trace and freeze proceeds of crime upon a request by another State party (art. 55, para. 2) and detail the content of a request for confiscation to be submitted to another State party (art. 55, para. 3), all parties that reported compliance cited, quoted or annexed relevant legislation. Reporting on measures enabling competent national authorities to give effect to a request for confiscation received by another State party (art. 55, para. 1) and fulfilling an optional reporting requirement, Colombia quoted relevant legislation and added that requests for confiscation received from such neighbouring countries as Panama and Ecuador were frequently executed by its competent authorities. Reporting on measures enabling competent national authorities to identify, trace and freeze or seize proceeds of crime upon a request by another State party (art. 55, para. 2), Argentina reported partial compliance with the Convention and added that relevant national authorities had overcome the limitations of existing legislation by applying the law on international cooperation and other bilateral or regional treaties. Reporting on the adoption of measures detailing the content of a request for confiscation to be submitted to another State party (art. 55, para. 3), Argentina recognized the need to amend its law on international legal assistance, while Brazil, which reported consistency with the entire article under review, stated that legislation had been drafted to achieve stricter compliance with the Convention.

**(e) Group of Western European and Other States**

113. Out of the 12 reporting parties, 10 indicated full implementation of the article under review, Turkey reported partial implementation, while Spain did not report on the implementation of the entire article under review (an obligatory reporting requirement). Turkey indicated partial implementation of measures enabling competent national authorities to give effect to a request for confiscation received by another State party (art. 55, para. 1). Assessing measures to enable competent national authorities to give effect to a request for confiscation received by another State party (art. 55, para. 1), identify, trace and freeze proceeds of crime upon a request by another State party (art. 55, para. 2) and give details of the content of a request for confiscation to be submitted to another State party (art. 55, para. 3), all

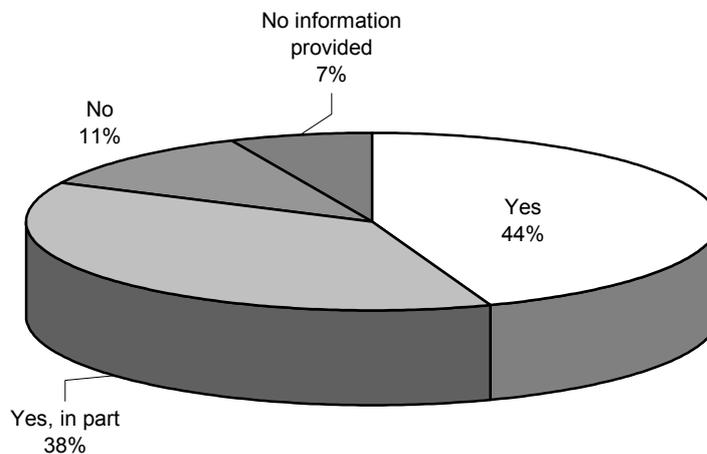
parties that reported full compliance except Finland and the United States cited or quoted relevant legislation. To ensure full compliance, Finland reported that a proposal for the implementation of the European Union's Council Framework Decision on the application of the principle of mutual recognition to confiscation orders<sup>11</sup> had been submitted by the Government to the Parliament in July 2007. The United States referred to the self-executing nature of article 46 of the Convention. According to that article, States parties must provide to one another mutual legal assistance in connection with the recovery of assets pursuant to chapter V of the Convention. Accordingly, compliance with article 55, paragraphs 1 to 3, emanated from being a party to the Convention and did not require adaptation of legislation.

## 5. Return and disposal of assets (article 57)

114. The global implementation of article 57 of the Convention is illustrated in figure XVI. Details of implementation by region are given in the subsequent paragraphs of the present section.

Figure XVI

### Global implementation of article 57 (reporting parties)



#### (a) Group of African States

115. Algeria, Burkina Faso and Namibia cited measures providing for the return and disposal of confiscated assets, thus indicating compliance with the article under review, without providing examples of successful application of such measures (an optional reporting requirement). In application of reported measures of compliance, Nigeria mentioned the return of proceeds of crime to Brazil and to Brazilian victims. The United Republic of Tanzania reported partial compliance with the mandatory provision providing for the disposal, including by return to its prior legitimate owner, of confiscated property (art. 57, para. 1). None of the reporting parties provided information on the ability of the cited legislation to implement the three-tier regime introduced by the Convention for the return of confiscated property depending on the nature of the underlying offence (i.e. embezzlement of public funds or laundering thereof, other offences of corruption covered by the

<sup>11</sup> *Official Journal of the European Union*, L 328 of 24 November 2006.

Convention and other unspecified criminal offences, art. 57, subparas. 3 (a)-(c)). Nigeria and the United Republic of Tanzania reported that no measures had been adopted to provide for the deduction of expenses incurred in the return or disposal of confiscated property (art. 57, para. 4) or the conclusion of agreements on final disposal of confiscated property (art. 57, para. 5).

**(b) Group of Asian and Pacific States**

116. Out of the five reporting States parties, only Indonesia indicated full compliance with the article under review. However, while the Law on Mutual Legal Assistance in Criminal Matters (2006) provided for the return of confiscated property, including to its prior legitimate owners, no cases had been recorded to date. Indonesia did not provide information on the ability of the cited legislation to implement the three-tier regime introduced by the Convention for the return of confiscated property depending on the nature of the underlying offence (i.e. embezzlement of public funds or laundering thereof, other offences of corruption covered by the Convention and other unspecified criminal offences, art. 57, subparas. 3 (a)-(c)). Assessing measures providing for the disposal of confiscated property, Jordan and Kyrgyzstan indicated partial compliance with the relevant prescription of the Convention (art. 57, para. 1) and no adoption of measures to implement the remainder of article 57. Bangladesh and the Philippines reported that no measures had been adopted to implement the entire article. Kyrgyzstan, fulfilling an optional reporting requirement, added that amendments to the Criminal Procedure Code necessary to implement article 57 had been submitted to the Chairman of the National Corruption Prevention Agency for review.

**(c) Group of Eastern European States**

117. Out of the 10 reporting parties, Belarus, Croatia, Latvia, Lithuania and Poland reported full implementation of measures providing for the return and disposal of assets. Romania, the Russian Federation and Slovenia reported partial implementation. The former Yugoslav Republic of Macedonia reported that no measures had been adopted to comply with article 57, while Montenegro provided no information in relation to the implementation of the entire article (an obligatory reporting requirement). Croatia, Latvia, Lithuania, Poland and Slovakia reported full implementation of measures providing for confiscated property to be disposed of, including by return to its prior legitimate owner (art. 57, para. 1). While all parties that reported compliance cited (Croatia), quoted or annexed (Slovakia) relevant legislation, none of them provided examples of successful implementation of such legislation (an optional reporting requirement). Belarus, Croatia, Latvia, Lithuania, Poland, Romania and Slovakia reported full implementation, while the Russian Federation indicated partial implementation, of measures enabling competent national authorities to return confiscated property upon request by another State party (art. 57, para. 2). However, none of them provided examples to substantiate their statements (an optional reporting requirement). Reporting on compliance with the provision of the Convention introducing a three-tier regime for the return of confiscated property depending on the nature of the underlying offence (i.e. embezzlement of public funds or laundering thereof, other offences of corruption covered by the Convention and other unspecified criminal offences (art. 57, subparas. 3 (a)-(c)), Belarus, Croatia, Latvia, Lithuania, Poland and Slovakia indicated full compliance. However, no cited or quoted legislation drew a

distinction between confiscated proceeds of embezzlement, confiscated proceeds of other offences of corruption and confiscated proceeds of crime in general. Furthermore, none of the parties that reported compliance furnished examples to substantiate their statement (an optional reporting requirement). Belarus, Croatia, Latvia, Lithuania, Poland and Romania indicated that measures consistent with the Convention had been adopted to provide for the deduction of expenses incurred in the disposal or return of confiscated property (art. 57, para. 4). The Russian Federation reported partial implementation, while Slovakia indicated no implementation of such measures. Belarus, Croatia, Latvia, Lithuania and Poland cited or quoted measures enabling the conclusion of agreements for the final disposal of confiscated property (art. 57, para. 5).

**(d) Group of Latin American and Caribbean States**

118. Out of the 12 reporting parties, Brazil, Mexico and Paraguay reported that measures in conformity with the Convention had been adopted to provide for the return and disposal of assets. Argentina, Colombia, the Dominican Republic, El Salvador, Peru and Uruguay reported partial compliance, while Bolivia and Costa Rica indicated that no such measures had been adopted. Chile provided no information on the implementation of article 57 (an obligatory reporting requirement). Out of 12 reporting parties, 7 described measures providing for confiscated property to be disposed of, including by return to its prior legitimate owner (art. 57, para. 1). Providing information on its partial compliance with the provision under review, Argentina recognized that the return of assets following civil forfeiture had not yet been regulated. El Salvador reported partial compliance with the provision under review and provided no further information (an optional reporting requirement). Reporting compliance, Peru recognized that the implementation of relevant legislation needed to be consolidated. Out of 11 parties, 5 reported on measures enabling competent national authorities to return confiscated property upon request by another State party, thus indicating full compliance with the Convention (art. 57, para. 2). Colombia assessed its legislation as partly in compliance with the provision under review owing to the fact that it did not provide for the return of confiscated property to another State. Colombia added that the shortcomings of its legislation were being compensated by applying relevant multilateral treaties on international cooperation. Peru, reporting compliance with the provision under review, recognized the need to improve the application of relevant legislation. Reporting on compliance with the provision of the Convention introducing a three-tier regime for the return of confiscated property depending on the nature of the offence (i.e. embezzlement of public funds or laundering thereof, other offences of corruption covered by the Convention and other unspecified criminal offences, art. 57, subparas. 3 (a)-(c)), Brazil, the Dominican Republic, Mexico, Paraguay and Uruguay cited or provided information on relevant measures, while Bolivia, Colombia, Costa Rica and El Salvador reported no compliance. Argentina, reporting partial compliance, indicated that its legislation provided for the return of confiscated property only to the requesting party and not to third parties or legal persons. Argentina, Brazil, Colombia, Mexico and Paraguay reported on the implementation of measures providing for the deduction of expenses incurred in the disposal or return of confiscated property (art. 57, para. 4), while Bolivia, Costa Rica, the Dominican Republic, El Salvador and Uruguay stated that no such measures had been adopted. Peru indicated partial compliance with the provision

under review. Argentina, Brazil, the Dominican Republic, El Salvador, Mexico and Paraguay cited or quoted measures enabling the conclusion of agreements for the final disposal of confiscated property (art. 57, para. 5), while Bolivia, Colombia and Costa Rica reported that no such measures had been introduced. Peru, reporting partial compliance with the provision under review, stated that several ad hoc asset-sharing agreements had been concluded.

**(e) Group of Western European and Other States**

119. Out of the 12 reporting parties, Austria, Canada, France, Norway, Portugal, Sweden, the United Kingdom and the United States reported full implementation of measures providing for the return and disposal of assets. Finland, the Netherlands and Turkey indicated partial implementation of such measures, while Spain did not report on the implementation of the entire article under review (an obligatory reporting requirement). All reporting parties except Turkey (partial implementation) cited or presented information on measures providing for confiscated property to be disposed of, including by return to its prior legitimate owner (art. 57, para. 1). Assessing measures enabling competent national authorities to return confiscated property upon request by another State party (art. 57, para. 2), Finland stated that full compliance with such measures would be achieved following the adoption of the proposal, submitted by the Government to the Parliament in July 2007, to implement the European Union's Council Framework Decision on the application of the principle of mutual recognition to confiscation orders.<sup>11</sup> France, while stating that its Constitution allowed for the direct application of the article under review, specified that the return of confiscated property to a requesting State party would be subject to the stipulation of a bilateral arrangement establishing concrete modalities for the return of such property. France also indicated that no such case had been recorded to date. Making reference to several instances when confiscated proceeds of corruption had been returned to Nigeria, the United Kingdom reported that this had been accomplished through administrative procedures based on the tacit understanding that stolen State funds would be returned in full after deducting reasonable costs. Reporting on compliance with the provision of the Convention introducing a three-tier regime for the return of confiscated property depending on the nature of the underlying offence (i.e. embezzlement of public funds or laundering thereof, other offences of corruption covered by the Convention and other unspecified criminal offences, art. 57, subparas. 3 (a)-(c)), all the 11 parties that reported compliance cited or provided information on relevant measures. Such measures, however, did not draw a distinction between confiscated proceeds of embezzlement, confiscated proceeds of other offences of corruption and confiscated proceeds of crime in general. All reporting parties indicated the adoption of measures providing for the deduction of expenses incurred in the disposal or return of confiscated property (art. 57, para. 4). All reporting parties except Finland, Turkey (no implementation) and the Netherlands (no information provided in relation to an obligatory reporting requirement) cited or quoted measures enabling the conclusion of agreements for the final disposal of confiscated property (art. 57, para. 5). Austria cited a draft asset-sharing agreement with the United States and, in its relationships with States members of the European Union, the applicability of the European Union's Council Framework Decision on the application of the principle of mutual recognition to confiscation orders.<sup>11</sup> Portugal reported that such a decision had not yet been applied domestically. Canada reported that various asset-sharing

agreements provided for the final disposal of forfeited assets. The United Kingdom stated that although asset-sharing agreements had been concluded with Canada, the United Arab Emirates and the United States, sharing and repatriation of assets were permitted also in the absence of specific agreements. Reference was made to various instances of asset repatriation to Nigeria handled on a case-by-case basis. The United States reported that where assets were to be transferred to a foreign State in recognition of assistance leading to forfeiture, such transfers had to be authorized pursuant to an international agreement. Box 43 contains examples of positive experience in implementing article 57 by the United States.

Box 43

**Examples of positive experience in implementing measures relating to return and disposal of assets: United States**

**Return and disposal of assets (art. 57)**

- **United States.** In 2004, the United States repatriated funds to Peru and Nicaragua in conjunction with investigations and forfeiture actions involving foreign official corruption. In August 2004, the United States repatriated \$20.2 million to the Government of Peru, representing 100 per cent of the net assets forfeited in two Department of Justice in rem forfeiture actions filed in connection with an investigation by the Federal Bureau of Investigation into fraud, corruption and money-laundering committed by former Peruvian intelligence chief Vladimiro Montesinos, his associate Victor Alberto Venero-Garrido, and other associates of the Government of former President of Peru Alberto Fujimori. The funds were transferred in accordance with an agreement entered into between the United States and Peru at the 2004 Special Summit of the Americas, which provided for transparency as well as special consideration for the compensation of victims and support for Peruvian anti-corruption efforts. This financial investigation also contributed to the successful apprehension of Montesinos in the Bolivarian Republic of Venezuela and the successful repatriation of additional funds to Peru, including more than \$14 million voluntarily repatriated by Venero. In December 2004, the Treasury Department transferred \$2.7 million to the Government of Nicaragua, representing 100 per cent of the net assets forfeited in a Department of Justice in rem forfeiture action filed in conjunction with a Department of Homeland Security immigration and customs enforcement investigation related to the criminal conduct of Byron Jerez, former Director of Taxation of Nicaragua and associate of former President Aleman. Pursuant to the agreement authorizing the transfer of these funds, almost all of the funds will be utilized for education projects, with \$100,000 going to support anti-corruption efforts of the Nicaraguan Prosecutor General's Office.

**E. Other information**

120. States were also invited to provide any other information believed to be important for the Conference to know regarding aspects of or difficulties in implementing the Convention other than those mentioned in respect of specific

articles. An overview of such information by region is presented in the subsequent paragraphs of the present section.

**(a) Group of African States**

121. Algeria urged the Conference to examine in more detail the status of implementation of the Convention in relation to provisions governing public finances, public procurement, asset recovery and sharing, and international cooperation. Nigeria highlighted efforts and plans to establish a system of civil forfeiture and non-conviction-based confiscation, identify a national focal point for asset recovery and establish a protection programme for victims, witnesses and whistleblowers. The United Republic of Tanzania referred to ongoing discussions with experts from the United States to draft a comprehensive witness protection law.

**(b) Group of Asian and Pacific States**

122. Bangladesh reported that following the ratification of the Convention, an Inter-Ministerial Committee had been established to align its domestic legal framework to the Convention. To that end, the Committee would soon undertake a detailed gap analysis. Indonesia appealed to States parties to regard the Convention as the basis for international cooperation in criminal matters. It further called for the establishment of an asset recovery fund and of regional centres for asset recovery and urged the development of a practical tool to assist States parties in their asset recovery efforts.

**(c) Group of Eastern European States**

123. To corroborate its reported anti-corruption efforts, Slovakia indicated that a memorandum on anti-corruption cooperation between the United Nations Development Programme and the General Prosecutor's Office of Slovakia had been signed in August 2007. A copy of the memorandum was provided to the Secretariat. The former Yugoslav Republic of Macedonia reported that its Criminal Code and the Criminal Procedure Code were being reviewed with a view to harmonizing them with the Convention. It further indicated that laws on managing confiscated property and on preventing money-laundering were about to be adopted.

**(d) Group of Latin American and Caribbean States**

124. Colombia provided additional information on the implementation of articles of the Convention related to asset recovery. El Salvador indicated that international cooperation in criminal matters could be rendered under other international treaties to which El Salvador was a party. Mexico provided an extensive account of international cooperation efforts and of programmes for participation of civil society in work to prevent corruption. Peru provided information on its legislation in relation to the principle of dual criminality (art. 46, para. 9). Uruguay reported that, in the context of the review of implementation of the Inter-American Convention against Corruption, a legal analysis had been conducted in order to identify needs for legislative amendments.

**(e) Group of Western European and Other States**

125. France stressed the importance of expanding the review of implementation of the Convention to article 8 (with particular regard to the obligation of public officials to report acts of corruption that come to their knowledge in the performance of their duties) and article 12, providing for measures to prevent corruption in the private sector. For a better understanding of the status of implementation of the provisions on asset recovery, France suggested that the review of compliance might be also extended to articles 31 and 46 of the Convention.

**III. Overview of compliance by reporting signatories**

126. The table below presents information concerning implementation of articles reviewed in the present report by States signatories to the Convention.

Table  
Implementation of the articles under review by reporting signatories

	<i>Article</i>														
	5	6	9	15	16	17	23	25	44	46	52	53	54	55	57
<b>Bhutan</b>	Yes	Yes	In part	Yes	Yes	In part	In part	Yes	Yes	Yes	In part				
<b>Brunei Darussalam</b>	In part	Yes	In part	Yes	In part	Yes	..	..	..	..	In part	No	No	No	No
<b>Czech Republic</b>	Yes	Yes	Yes	Yes	Yes	Yes	In part	Yes	No	No	In part	Yes	In part	Yes	In part
<b>Germany</b>	Yes	Yes	Yes	In part	Yes	Yes	In part	Yes	No	No	In part	Yes	Yes	Yes	Yes
<b>Greece</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	In part	In part	In part
<b>Italy</b>	Yes	Yes	In part	..	..	..	..	..	..	..	..	..	..	..	..
<b>Switzerland</b>	Yes	Yes	Yes	Yes	Yes	Yes	In part	Yes	No	No	Yes	Yes	Yes	Yes	Yes

*Note:* Two dots (..) indicate that information was not provided.

**IV. Conclusions and recommendations**

127. The analysis provided in the present report lends itself to several conclusions, some related to the information-gathering tool and the reporting process, others related to the outcome of the reporting exercise. In relation to the first aspect, a number of reporting parties fulfilled optional reporting requirements by quoting or annexing measures to implement the articles under review, thus allowing for an

initial corroboration of stated compliance. Other reporting parties cited such measures but did not provide examples to substantiate their ability to meet the specific requirements of the Convention. As a result, the present report is, to a large extent, a reflection of stated but not verified implementation efforts. To address the issue, the Conference may wish to endorse the relevant recommendations of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption (see CAC/COSP/2008/3) and of the Open-ended Intergovernmental Working Group on Technical Assistance (see CAC/COSP/2008/5). Both Working Groups regarded the self-assessment checklist, the instrument designated by the Conference at its first session to gather information on the implementation of the Convention, as a useful information-gathering tool, while recognizing the need for further development. When deciding on such development, the Conference may wish to consider means of gathering information in a more detailed manner.

128. The provision of information on the implementation efforts in a substantiated manner will inevitably open new horizons in terms of how to take substantive action in the future. The present report, incomplete as it may be, is the result of the analysis of over 2,000 pages of information received by the Secretariat, including the self-assessment reports, annexed documentation and legislation. Several reporting States supplemented their replies by providing a large number of links to the World Wide Web where additional information was to be found. The inevitable limitations of the present report to reflect such a wealth of information and the paucity of the resources available to the Secretariat to make a more in-depth analysis of compliance with the Convention are self-evident. Irrespective of the decision on the mechanism for the review of implementation of the Convention, the Conference may wish to further simplify the reporting exercise while allowing for the collection of detailed and substantiated information. This may be accomplished by recommending the development of a reporting guide for respondents and of standard templates for answers. Such tools will permit States parties to minimize the reporting effort by seeking and providing only information necessary to review the implementation of the specific requirements of the Convention. This, coupled with the employment of qualitative analysis programmes offered by modern information technology applications, would further facilitate the provision and subsequent analysis of information on implementation. In this connection, the Conference may wish to take note of the recommendations formulated by the Open-ended Interim Working Group of Government Experts on Technical Assistance established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (see CTOC/COP/2008/7). The Working Group recommended the immediate development of an efficient and user-friendly information-gathering tool in the form of an interim computer-based checklist and, in the long term, the development of comprehensive software-based information-gathering tools for the Convention and each of its protocols, accompanied by a guide for respondents to facilitate the use of the tools.

129. The regional breakdown of the response rate is another factor that the Conference might wish to consider. While an overall rate of 42 per cent may be regarded as encouraging, recognizing the limited time (just over five months) between the distribution of the checklist and the deadline for its submission to the Secretariat (30 November 2007), the highly uneven regional breakdown requires close attention and needs to be addressed. The Conference may wish to identify

ways to assist States of the two regional groups whose response rate is largely below 50 per cent.

Box 44

**Regional breakdown of rate of response to the self-assessment questionnaire**

- Group of Western European and Other States: **80 per cent** of the members of the Group parties to the Convention
- Group of Latin American and Caribbean States: **60 per cent** of the members of the Group parties to the Convention
- Group of Eastern European States: **56 per cent** of the members of the Group parties to the Convention
- Group of Asian and Pacific States: **28 per cent** of the members of the Group parties to the Convention
- Group of African States: **15 per cent** of the members of the Group parties to the Convention

130. The Conference may also wish to act upon the substantive findings of the reporting exercise. Considerations emanating from the highlights below are to be formulated after taking into account that some 50 per cent of the parties that reported implementation cited but did not quote or annex measures adopted to implement the Convention, thus impairing the ability of the Secretariat to substantiate stated compliance. Fulfilling optional reporting requirements, 50 per cent of the respondents provided in full or in part copies of national legislation. Provision of such legislation was often regarded as sufficient to state full compliance with the article under review. However, a preliminary legal analysis evidenced that only one piece of legislation out of three was indeed able to meet the specific requirements of the article in respect of which such legislation had been provided.

131. In reporting on preventive measures (chapter II), the large majority of the reporting parties stated that anti-corruption policies (art. 5) and bodies (art. 6) had been established. The compliance rate in relation to the implementation of measures for public procurement and management of public funds (art. 9) is lower (56 per cent), with 4 per cent of the reporting parties providing no information.

132. In reporting on criminalization and law enforcement (chapter III), measures providing for the criminalization of bribery of national public officials (art. 15) and embezzlement of public funds (art. 17) enjoy the highest rate of compliance (over 80 per cent for both articles). Similarly, three out of four reporting parties have criminalized obstruction of justice (art. 25). In contrast, the compliance rate for the provisions providing for the criminalization of money-laundering (art. 23) is the second lowest of the entire report, while provisions providing for the criminalization of bribery of foreign public officials (art. 16) are the least frequently implemented (49 per cent non-compliance rate).

133. For international cooperation (chapter IV), since the review of implementation of measures adopted to implement chapter IV was limited to the fulfilment of notification obligations, no meaningful conclusions can be drawn.

134. Lastly, for asset recovery (chapter V), out of the four chapters of the Convention under review, the compliance rate of chapter V is the lowest (less than 50 per cent), with the highest percentage of parties unable to provide any information.

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