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Implementation Review Group

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Agenda item 2

Executive Summary

Note by the Secretariat

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II. Executive summary

Zambia

1. Introduction

Overview of the legal and institutional framework of Zambia in the context of implementation of the United Nations Convention against Corruption

Zambia signed the United Nations Convention against Corruption (UNCAC) on 11 December 2003 and ratified it on 7 December 2007. The Zambian legal system is based on the English common law tradition. The Constitution is the supreme law and would prevail if any legal inconsistencies were to arise. The primary legal framework to fight corruption is the Anti-Corruption Act No. 38 of 2010 (AC Act). Other relevant laws include the Penal Code Act (PC), which contains a number of provisions dealing with corruption, abuse of office and the exercise of public authority, as well as the Prohibition and Prevention of Money Laundering Act No. 14 of 2001 (ML Act) and the Forfeiture of Proceeds of Crime Act No. 19 of 2010 (Forfeiture Act).

The principal anti-corruption institution in Zambia is the Anti-Corruption Commission (ACC). It is responsible for investigations, community education and corruption prevention. It is also responsible for spearheading the implementation of the National Anti-Corruption Policy of 2009 (2009 NACP) and its Implementation Plan of 2010 (2010 Implementation Plan). There are also a number of other relevant institutions. The Anti-Money Laundering Unit, a department under the Drug Enforcement Commission (DEC), is an inter-agency unit tasked with combating money-laundering. The Office of the Auditor General monitors expenditure of public resources with respect to a purpose approved by Parliament. The Public Accounts Committee of the National Assembly is responsible for examining the financial management of accounting officers of the public service, State-owned enterprises and statutory institutions whose accounts are audited by the Office of the Auditor General. The Commission for Investigations or Ombudsman inquires into the conduct of any public office holder in the exercise of his/her office or authority. Lastly, the Judicial Complaints Authority is mandated to investigate allegations of misconduct against judicial officers.

In general, the reviewers emphasized the need to make available more statistics and cases on the implementation of legal provisions that would facilitate an assessment of their effectiveness. Concrete practical information on how the coordination between the anti-corruption institutions is accomplished was deemed a priority. The 2009 NACP and 2010 Implementation Plan focus on identified legislative and institutional gaps in Zambia's fight against corruption, and also enhance Zambia's effectiveness to implementing UNCAC, as well as the African Union Convention on Preventing and Combating Corruption and Southern African Development Community (SADC) Protocol Against Corruption.

Implementation of chapters III and IV

2. Criminalization and law enforcement (chapter III)

2.1. Observations on the implementation of the articles under review

Bribery offences; trading in influence (articles 15, 16, 18, 21)

Existing offences of active (ss. 19(2) and 20(2), AC Act) and passive (ss. 19(1) and 20(1), AC Act) bribery of national public officials were found to legislatively implement article 15 of UNCAC. Working definitions of, inter alia, “bribe” and “public official” are found in the 2009 NACP and of “public service employees” in the Code of Ethics (para. 3). It was noted that the Head of State was not deemed to be a public officer (High Court decision in *Chiluba v. People*).

Sections 20 and 25 of the AC Act provide for the definition of corrupt transactions by, or with, private bodies, as well as the definition of corrupt practices by, or with, foreign public officials. Section 25(1) of the AC Act is broader than UNCAC as it is not limited to “the conduct of international business”.

Regarding trading in influence, the authorities referred to the Code of Ethics for the Public Service, “Public Service employees shall ... not act in a way which may involve possible maladministration or is inconsistent with this Code” (para. 12).

The active and passive bribery in the private sector is partially criminalized by sections 20 and 23 of the AC Act. In general, the 2009 NACP includes an anti-corruption legal framework governing the private sector.

The prosecution system is currently being restructured, as a new Prosecution Authority is being created. The Authority will have the mandate to exclusively deal with corruption-related offences which will be dealt with by the Conventions Crime Unit under the Authority. The National Prosecution Authority (NPA) will be mandated to deal with corruption and other related offences. To date, it has been the ACC who has dealt with such offences.

Laundering of proceeds of crime; concealment (articles 23, 24)

The anti-money-laundering framework is predominately contained in the ML Act, noting that the AC Act provides for all corruption-related offences mentioned in the Act to be regarded as predicate offences (s. 40); such offences are not provided for in the ML Act. Section 35 of the AC Act further criminalizes the act of converting, transferring or disposing of property that is from the proceeds of a corruption-related offence in the Act. There is no provision that addresses self-laundering. “Proceeds of crime” is defined under the ML Act as “any property, benefit or advantage, within or outside Zambia realised or derived, directly or indirectly from illegal activity”. Other general provisions include, inter alia: definitions of principal offenders (s. 21, PC) and attempt (s. 389, PC); criminalizing the act of aiding, abetting or counselling or conspiring with any person to commit an offence under the AC Act (s. 39, AC Act); and liability for offences committed outside the jurisdiction (or partly within/beyond: s. 6, PC). Concealment of property is contained in section 35 and concealment of an offence in section 37 of the AC Act.

Embezzlement; abuse of functions; illicit enrichment (articles 17, 19, 20, 22)

The embezzlement, misappropriation or other diversion of property by a public official is criminalized in the AC Act and PC. Section 33 of the AC Act provides for the definition or corruption acquisition of public property and revenue. Stealing by persons in the public service is covered by section 277 of the PC. With respect to “private funds or securities or any other thing of value” in UNCAC article 17, this was held to be included in section 20 of the AC Act, and “entrusted to the public official by virtue of his or her position” in subsection 33(2). Embezzlement is also to be treated as “theft”.

The offence of abuse of functions is primarily covered by section 99 of PC, but other provisions are also relevant (i.e. 97, PC; para. 12, Code of Ethics; s. 4, Parliamentary and Ministerial Code of Conduct Act).

Illicit enrichment is not criminalized. Article 18 of the Constitution does not allow for the reversal of the burden of proof. Of interest were sections 319 and 320 of the PC, whereby a person suspected of having or conveying stolen property shall be brought before a court, and the receiving of goods stolen outside of Zambia can amount to a criminal offence and the person can be liable to imprisonment of seven years. To date, these provisions have not been applied. Some types of public officials are requested to hand in asset declarations (i.e. officers in a Ministerial Office: s.10, Parliamentary and Ministerial Code of Conduct Act; a Commissioner: s. 4, AC Act). The shortcomings of adequate legal provisions were addressed in the ACC’s Strategic Plan (2009-2013) and the reviewers were informed of a bill pending before Parliament which would oblige all public officials to deposit asset declarations.

The criminalization of embezzlement of property in the private sector is limited to stealing by clerks and servants (s. 278, PC).

Obstruction of justice (article 25)

The wide range of provisions on the criminalization of obstruction of justice (ss. 24 and 58, AC Act; Chapter XI on offences relating to the administration of justice, PC) was found to meet the requirements of article 25 of UNCAC.

Liability of legal persons (article 26)

Section 46 of the AC Act provides for the piercing of the corporate veil, whereby if “an offence under this Act is committed by a body corporate or unincorporated body, every director or manager ... shall be liable”. However, the Act fails to cite the sanctions that may be imposed. Punishment for a convicted person can be found under the general penalties in section 40 of the AC Act.

Section 233 of the Companies Act allows for any civil or criminal liability for any negligence, default, breach of duty or breach of trust of a director or other officer. Section 24 of the Forfeiture Act further provides for when a court may lift the corporate veil, but only with respect to a confiscation order.

Participation and attempt (article 27)

Sections 21 and 23 of the PC provide for the definitions of the principal offenders and the counselling of another to commit an offence. Section 39 of the AC Act

covers attempts and conspiracies. Sections 394 to 396 of the PC provide for conspiracies to commit felonies, misdemeanours and other forms of conspiracies. Conspiracy in the PC was deemed to be used interchangeably with or linked to “preparation” as referred to in UNCAC article 27 (3).

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (articles 30, 37)

Most sections of the AC Act prescribe specific sanctions, but, for example, the DPP may “tender indemnity to such person on condition that the person makes a full and true disclosure of all facts or circumstances within that person’s knowledge relating to the offence” (s. 62). However, in instances where the sanctions are not provided, section 40 (definition of a general penalty) is to be followed, or other measures (i.e. Code of Ethics for the Public Service) are relied on. Examples of discretionary legal powers are in the Plea Negotiations and Agreements Act and National Prosecution Authority Act. Bail conditions are contained in the Criminal Procedure Code and AC Act. The Parole Board, established under the Prisons Act, focuses on the release of persons on parole (i.e. gravity of the offence, behaviour).

Section 17 of the AC Act provides for the definition of immunity of staff in the ACC. Functional immunity exists in Zambia’s domestic legal system (i.e. for judicial officers: s. 15, PC; Commissioner: s. 10, AC Act). Article 43 of the Constitution on privileges and immunities granted to the President may have been fundamental to the decision in *Chiluba v. The People* where the former President was acquitted. The former President was acquitted not because of his immunity which was lifted by Parliament, but because he was deemed not to be a public officer.

The reviewers noted that the functions of the President of Zambia appear to fall under the definition of a public officer and were he or she to be exempt from prosecution, then the UNCAC-related offences that have been domesticated in the AC Act would not be applicable.

Police Commissioner provided that joint operations take place (i.e. with the Police, ACC and DEC).

Protection of witnesses and reporting persons (articles 32, 33)

The AC Act provides that the “provisions of the Public Interest Disclosure (Protection of Whistleblowers) Act of 2010 (Whistleblowers Act), shall apply in relation to the protection of whistleblowers and other related matters” (s. 63). These provisions include, inter alia, protection against reprisals, non-disclosure of person’s identity, relocation powers, disclosure of conduct adverse to the public interest in the public and private sectors, a framework within which public interest disclosures shall be independently and rigorously dealt with, and safeguarding the rights, including employment, of persons who make disclosures. Part III of the National Prosecution Authority Act No. 34 of 2010 provides for “The Witness Management Fund”, which has not yet been implemented.

Freezing, seizure and confiscation; bank secrecy (articles 31, 40)

The Forfeiture Act covers confiscation or forfeiture orders (ss. 4 and 10; also, variations i.e. to increase the amount of the order by the value of the

property: s. 23), non-conviction based forfeiture (ss. 29 and 30), powers to search and seize (ss. 35-40), the Attorney-General to take custody and preserve forfeited property (also that which has been tainted) (s. 28), protection of third parties (s. 12; noting that the PC also covers a bona fide claim of right: s. 8) and the establishment of a Forfeited Assets Fund (s. 73). However, the Forfeiture Act may be limited in that it applies only to a “serious offence”, which is an offence for which the maximum penalty prescribed by law is death or imprisonment for not less than twelve months; this would exclude most UNCAC-related offences in Zambia’s domestic legal system. However, sections 40 to 44 of the AC Act cover “general penalty” (i.e. forfeiture to the State of any pecuniary property or advantage), “restitution” (i.e. forfeiture as above), “recovery of gratification by distress, etc”, and “recovery of gratification corruptly received by agent, and the certificate of Government valuation officer or other specialist valuer”.

The AC Act further focuses on means to investigate corrupt practices (i.e. conduct a search without a warrant), seizure of property, custody and release of seized property, restriction on disposal of property, also by a third party (ss. 50-57), and the power to investigate bank records (s. 52). In practice, it was held that the Evidence (Banker’s Books) Act is used to acquire a court order to access bank records. Section 50 of the Banking and Financial Services Act provides for confidentiality in business practices and dealings with the public.

The ML Act has a section dedicated to seizure and forfeiture of property in relation to money-laundering (Part VI).

Statute of limitations; criminal record (articles 29, 41)

There is only a statute of limitations for minor offences, which would exclude corruption-related offences. There is no statute of limitation for criminal offences in Zambia.

A criminal record request can be made through mutual legal assistance, pursuant to section 38 of the Mutual Legal Assistance in Criminal Matters Act (MLA Act).

Jurisdiction (article 42)

Section 2 of the AC Act provides that all offences in the Act are to also be considered under the Criminal Procedure Code and any other written law (thus, also the PC). Section 5 of the PC extends jurisdiction to “every place within Zambia”. The active personality principle (s. 6, PC) was deemed covered, assuming that a stateless person would also be included, but not the passive personality principle. Moreover, the *aut dedere aut judicare* principle applies, as a Zambian citizen shall not be extradited (s. 34, Extradition Act), but if the offence is committed outside of Zambia, he or she “shall be guilty of the like offence and be liable on conviction to the like punishment as if the act were done within Zambia” (s. 59, Extradition Act).

Consequences of acts of corruption; compensation for damage (articles 34, 35)

A limited number of forms of remedial action were cited, such as voiding a contract (s. 32, Forfeiture Act). No measures exist to ensure that entities or persons who have suffered damage as a result of a corrupt act have the right to initiate legal proceedings to obtain compensation.

Specialized authorities and inter-agency coordination (articles 36, 38, 39)

The main anti-corruption body in Zambia is the ACC. The Commission's autonomy is guaranteed in section 5 of the AC Act, whereby the ACC "shall not ... be subject to the direction or control of any person or authority", noting that the Parliament votes on the Commissioners of the ACC. However, the Commission only has independence up until an investigation, because a matter can only be prosecuted with the approval of the Director of Public Prosecutions (DPP) which would then firstly be taken before the Subordinate Court. The Prosecutors working for the ACC are also approved by the DPP (s. 13, National Prosecutions Authority Act). The ACC has offices across the country in the 9 Provinces. It has three main functions, performed by its four units: (1) investigations — based on complaints (i.e. in person, e-mail, toll-free calls); (2) carrying out arrest and prosecutions, subject to the approval of the DPP; and (3) corruption prevention and community education (i.e. working with others to set up reporting systems and public awareness in order to establish measures to prevent corruption in public and private bodies). There are around 300 employees in the ACC and about 100 work in the investigations unit.

Zambia does not have a conflict of interest law, per se, but the experts were referred to the conflict of interest provision (s. 27, AC Act). The working definition of "conflict of interest" is contained in the Implementation Plan: "a situation when a person holding a position of trust and responsibility chooses to promote and advance his/her personal interest over the interest of the organisation or the public, or advances or benefits the interest of one party at the expense of another".

The Auditor General's Office was also referred to as an anti-corruption watchdog. It has a liaison officer in the ACC. A Memorandum of Understanding between the Auditor General's Office and ACC allows them to share information during auditing process. Based on the audit reports produced, the ACC can institute investigations into corruption-related matters.

The ACC is to "co-operate with other institutions authorized to investigate, prosecute, prevent and combat corrupt practices so as to implement an integrated approach to the eradication of corruption" (s 6(e), ACC Act). The National Prosecution Authority is also to "cooperate with the police, the courts, the legal profession and other Government agencies or institutions so as to ensure the fairness and effectiveness of prosecutions" (s. 5(g), National Prosecution Authority Act). There is a joint taskforce in existence that is investigating the former high-profile government officials and others (i.e. former Minister of Health). This taskforce exchanges relevant information and consists of the ACC, DEC, Attorney-General's Office, Bank of Zambia, Police, Intelligence Service, Government Valuation Department and others, such as the FIU when required. The experts were further informed by the DEC of the national taskforce that was also established to address money-laundering. It meets monthly and includes institutions, such as the DEC, ACC, Police, Central Bank, Security and Exchange Commission and Registrar of Societies. An MOU was to also be signed between the DEC and Police.

2.2. Successes and good practices

The 2009 NACP and 2010 Implementation Plan were deemed by the review team to be a good practice, and their enforcement encouraged. Moreover, the existing secondments (i.e. ACC officer in the Ministry of Education; also in the past, ACC

officer in the Customs and Compliance Department of Barclay's Bank) were deemed to foster for increased cooperation.

2.3. Challenges in implementation

A number of challenges are mentioned in the 2009 NACP and 2010 Implementation Plan that touch upon, *inter alia*, an inadequate legislative framework (i.e. anti-money-laundering) and weak enforcement and prosecution capabilities. Bearing in mind the ongoing efforts of Zambia, the reviewers made the following recommendations:

- Extend definitions to implement UNCAC articles 16 and 21, namely: section 20 of the AC Act to an official of a public international organization and “with which any private body is or may be concerned”; section 23 to economic, financial or commercial activities; and section 25 to include an undue advantage to an entity;
- Consider adopting such legislative and other measures as may be necessary: to criminalize trading in influence and embezzlement of property in the private sector; to initiate legal proceedings in order to obtain compensation; to provide for mitigating punishment and enter into agreements or arrangements to facilitate the cooperation with law enforcement authorities; and to encourage cooperation between national investigating and prosecuting authorities and the private sector involving UNCAC-related offences;
- Establishing the liability of legal persons as criminal, civil or administrative, without prejudice to the criminal liability of the natural persons who committed the offences;
- Enable the confiscation (or forfeiture) and administration of property, equipment or other instrumentalities (also, acquired through transforming or converting the proceeds of the crime) used in or destined for use in UNCAC-related offences;
- Consider simplifying existing procedures and requirements pursuant to UNCAC article 23, as well as furnish copies of Zambia's money-laundering laws to the Secretary-General of the United Nations;
- Consider amending article 43(3) of the Constitution to allow for a former President to also be charged with a criminal offence or be amenable to the criminal jurisdiction of any Court, in respect of any act done or omitted to be done by him or her in his or her personal capacity, while he or she held the office of the President, unless the National Assembly has determined that such proceedings would be contrary to the interests of the State;
- Amend section 61 (Presumption of corrupt intention) of the AC Act in order to be consistent with its Constitution and adhere to its international human rights obligations (as a State party to the International Covenant on Civil and Political Rights) by upholding the presumption of innocence;
- Consider establishing procedures for the disqualification of persons convicted of UNCAC-related offences from holding office in an enterprise owned in whole or part by the State;

- Endeavour to promote the reintegration into society of persons convicted of UNCAC-related offences;
- Establish evidentiary rules, as well as procedures for the physical protection of witnesses, noting that an independent body specifically responsible for implementing the Whistleblowers Act might be advantageous, as well as having such a body linked to the Witness Management Fund;
- Ensure measures are taken to ensure the necessary independence of the ACC (i.e. conflict of interest law, consistent salaries, adequate training and sufficient resources, the new Prosecution Authority to provide reasons for why a matter is not prosecuted, and the Conventions Crime Unit develop an anti-corruption specialization);
- Establish jurisdiction according to the extended territoriality and protection (jurisdiction over UNCAC-related offences committed against the State party) principles and over corruption-related offences when the alleged offender is present in its territory and does not extradite such a person.

2.4. Technical assistance needs identified to improve implementation of the Convention

The 2009 NACP and 2010 Implementation Plan outline concrete areas requiring assistance, and means (i.e. human, financial) to complement such assistance would be beneficial. In addition to this, the review team has highlighted the following areas:

- Greater legislative assistance (i.e. good practices, model legislation) with respect to, inter alia, illicit enrichment and money-laundering;
- Witness and whistleblower protection, varying from legislative assistance to capacity-building programmes, in particular the implementation of the Witness Management Fund;
- With respect to UNCAC article 36, given the establishment of the new Conventions Crime Unit under the Prosecution Authority, capacity-building of this Unit, as well assistance to ensure inter-agency coordination;
- Overall enhancement for effective cooperation with law enforcement authorities and cooperation between national authorities.

3. International cooperation (chapter IV)

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (articles 44, 45, 47)

In general, extradition is treaty-based in Zambia (a distinction is drawn for Commonwealth countries: ss. 16 and 17, Extradition Act; bilateral agreements exist with, in particular, Southern African States) and based on ad hoc arrangements premised on the principle of reciprocity. Domestic legislation provides for the dual criminality requirement as a condition for granting extradition. Various conditions are contained in the Extradition Act or applicable treaties (i.e. SADC Protocol on Extradition), such as the penalty requirement of “imprisonment for a maximum

period of not less than one year or by a more severe penalty” (s. 4(1), Extradition Act). However, the reviewers were informed that in considering the applicability of offences under the AC Act, according to section 77, the varying penalty requirements would not, prima facie, pose a hurdle to them also being extraditable offences. Section 46 of the Narcotic Drugs and Psychotropic Substances Act also provides for extradition, which is relevant to money-laundering offences.

The Extradition Act provides for extraditable offences (s. 4), obligation to extradite (s. 5), request for extradition (s. 6), documents to support request (s. 7), provisional warrant for arrest (s. 9), committal or discharge of person whose extradition is requested (s. 10), lapse of time before surrender (s. 11), surrender of prisoner under warrant of Attorney-General (s. 12), political offences (s. 31), denial if it is based on race, religion or nationality (s. 32), the rule of speciality (ss. 42 and 57), restrictions on the return of a person (s. 52) and evidence and authenticated documents (s. 55) and conditions of imprisonment (s. 56). There are additional procedures and requirements for extradition to declared Commonwealth countries under the Extradition Act, such as sections 21 (issue of warrants) and 22 (proceedings after arrest).

The Attorney-General’s Office, in cooperation with the relevant law enforcement authorities, is the authority responsible for extradition and mutual legal assistance (MLA). In 2011, there was one corruption-related extradition request that is yet to be responded to.

The Transfer of Convicted Persons Act addresses the transfer of convicted persons (not detained persons) between Zambia and other countries. Section 140(1) of the Prisons Act provides for the Minister of Home Affairs to request and allow Zambian nationals sentenced abroad to finish the remainder of their jail sentence in Zambia. Section 26 of the Mutual Legal Assistance in Criminal Matters Act (MLA Act) also focuses on the transfer of detained persons serving a term of imprisonment in Zambia.

Mutual legal assistance (article 46)

In general, MLA is treaty-based in Zambia (there is no record of such treaties, but there is a Schedule to the MLA Act with a list of countries and bilateral agreements in existence, in particular, with Southern African States) and based on ad hoc arrangements premised on the principle of reciprocity. Domestic legislation provides for the dual criminality requirement as a condition for granting assistance.

Section 73 of the AC Act provides that the MLA Act applies to its offences. The MLA Act covers “such conditions as the Attorney-General may determine” (s. 8), format and manner in which a request by foreign States is to be made (s. 10, including the wishes of the foreign State concerning confidentiality: subsection (2)(e)), refusal of assistance (s. 11), search and seizure in foreign investigations or other proceedings in respect of offenders (s. 13), search warrants (s. 14), evidence gather order (s. 20), but limited to the “whereabouts of a person who is suspected of having committed the offence will be found in Zambia” (s. 20(1)(b)), sending evidence abroad (s. 22) and immunities (s. 44).

As mentioned above, the central authority is the Attorney-General’s Office. In urgent circumstances, communications might also be sent through the International Criminal Police Organization (INTERPOL). Examples were provided of where

MLA requests have been sent and Zambia has also received a request that used UNCAC as a legal basis. One MLA request had also been addressed on an ad hoc basis using the principle of reciprocity.

Section 52 of the AC Act provides for the inspection of banker's books (applicable to MLA, pursuant to section 73 of the AC Act). It was further confirmed that bank secrecy would not be a ground to refuse MLA. The Forfeiture Act, also applicable to MLA, covers, inter alia: search for and seizure of tainted property; interim restraining orders and productive orders; and search warrants in relation to foreign serious offences, which are serious offences against the law of a foreign country (ss. 40, 52 and 63).

Law enforcement cooperation; joint investigations; special investigative techniques (articles 48, 49, 50)

The Ministry of Foreign Affairs informed the reviewers that it is responsible for transmitting information and facilitating the communication line between international and Zambian law enforcement authorities. The Ministry is also kept informed by specialized agencies dealing with a given request.

Reference was made to the Southern African Police Service Cooperation (SOUTHCO) which facilitates the exchange of information relating to corruption or money-laundering matters in Southern Africa. INTERPOL is used beyond this boundary. The reviewers were informed of the use of ad hoc arrangements to conduct investigations. However, it was held that UNCAC could also be used as a legal basis for such cooperation.

Zambia is a member of the Southern Africa Regional Police Chiefs Organisation (SARPCO) and INTERPOL. Joint investigations in Zambia are carried out pursuant to Zambia's domestic laws.

The ACC carries out surveillance operations based on the provisions contained in Part IV of AC Act, pursuant to subsection 47(2). This subsection does not mention the word "surveillance" per se, although surveillance operations are sometimes conducted by officers to test a report of solicitation and bribery. The ACC is currently setting up a Special Investigations Unit to specialize, inter alia, in surveillance and intelligence gathering.

3.2. Challenges in implementation

A number of challenges are mentioned in the 2009 NACP and 2010 Implementation Plan that touch upon, inter alia, enhancing Zambia's international cooperation. Bearing in mind the ongoing efforts of Zambia, the reviewers made the following recommendations:

- Consider allowing for extradition in the absence of dual criminality for UNCAC-based offences and for Zambia to consider using UNCAC as a legal basis in order to facilitate international cooperation;
- Amend the extradition legislation with a view to simplifying the evidentiary requirements in line with UNCAC article 44, paragraph 9, and guarantee the fair treatment of such persons at all stages of the extradition proceedings (i.e. by also extending section 32 of the Extradition Act to include "on account of that person's sex, ethnic origin or political opinions");

- Ensure that an extradition or MLA request may not be refused based on the sole ground that the offence involves fiscal matters and consultations take place before refusing such a request;
- Seek to further facilitate international cooperation to increase the effectiveness of MLA proceedings (i.e. regarding money-laundering, involving legal persons, extending evidence gathering (s. 20, MLA Act), effecting service of judicial documents and allowing hearings via video conference, using evidence for what it was intended);
- Notify the Secretary-General of the United Nations of Zambia's designated central authority for MLA and the applicable language to be used;
- Ensure that witnesses, experts and other persons who consent to give evidence are not subject to investigation, prosecution or judicial proceedings in the territory of the requesting State in accordance with paragraph 27 of UNCAC article 46;
- Consider adopting a practice, policy or arrangement that regulates the possibility of transferring criminal proceedings to another State party;
- Enhance Zambia's law enforcement cooperation by taking effective measures to cooperate with other States parties (i.e. in conducting inquiries, conducting analytical and investigative techniques, exchanging personnel and other experts), which could also include using UNCAC as a legal basis for such cooperation.

3.3. Technical assistance needs identified to improve implementation of the Convention

Bearing in mind the 2009 NACP and 2010 Implementation Plan, a broad range of assistance was requested, varying from legislative (i.e. legal advice, good practices) to capacity-building programmes, with respect to international cooperation. Some areas highlighted by the review team include:

- Establishing a case management system for the central authorities and increasing their capacity-building programmes;
- Assisting the newly established Special Investigations Unit in the ACC to specialize, inter alia, in surveillance and intelligence gathering.