

25 November 2019

Original: English and Spanish

English and Spanish only

Implementation Review Group

Second resumed tenth session

Abu Dhabi, 17 and 18 December 2019

Agenda item 2

Review of the implementation of the United Nations Convention against Corruption

Executive summary: Uruguay

Note by the Secretariat

The present conference room paper is being made available to the Implementation Review Group in accordance with paragraph 36 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (Conference of the States Parties resolution 3/1, annex). The summary contained herein corresponds to a country review conducted in the second year of the second review cycle.



II. Executive summary

Uruguay

1. Introduction – Overview of the legal and institutional framework of Uruguay in the context of the implementation of the United Nations Convention against Corruption

The implementation by Uruguay of chapters III and IV of the Convention was reviewed in the second year of the first review cycle of the Convention and the executive summary of that review was published on 8 October 2014 (CAC/COSP/IRG/I/2/1/Add.31).

The Uruguayan legal system is based on the civil law tradition. The executive may conclude and sign treaties but requires the approval of the legislature to ratify them (art. 168 Constitution). Implementation of the Convention is governed by Act No. 18.056, which made the Convention an integral part of Uruguay's legal system. The instrument of ratification was deposited on 10 January 2007. The Constitution is the supreme law of the State, followed in priority order by laws, international treaties ratified by law, and codes.

The legislation implementing chapters II and V of the Convention includes Laws 15.322 on the Financial Intermediation System, 17.060 on Rules on the Improper Use of Public Power, 18.930 on Technical Convergence on International Fiscal Transparency, 19.574 on Money-Laundering, relevant articles of the Penal Code and the General Procedure Code, the Compilation of Norms for Regulation and Control of the Financial System, and the Compilation of Norms of the Central Bank of Uruguay.

The main institutions involved in preventing and combating corruption are the Transparency and Public Ethics Board (JUTEP), the National Secretariat for the Fight against Money Laundering and Terrorism Financing, the Attorney-General's Office, the Directorate-General for Combating Organized Crime and INTERPOL, the Financial Information and Analysis Unit (UIAF), the Judiciary and the Central Authority for International Cooperation under the Ministry of Education.

2. Chapter II – Preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Uruguay has a National Strategy against Money-Laundering, Terrorism Financing and the Proliferation of Arms of Mass Destruction (2017–2020), which includes an objective aimed at incorporating the fight against corruption as fundamental component in the fight against money-laundering. To ensure coordination among preventive efforts, the President of JUTEP participates in the Coordinating Commission against Money-Laundering, which is tasked with implementing the Strategy. Anti-corruption in matters other than money-laundering is not addressed through a policy document. While monitoring of initiatives is being carried out, there is no set monitoring schedule or methodology. Uruguay participates in regional and global anti-corruption initiatives such as those led by the Organization of American States, including through its participation in the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC), GAFILAT and UNODC.

Several institutions work together to implement Uruguay's anti-corruption laws, including JUTEP, the Internal Auditor's Office, the Court of Auditors, the National Civil Service Office (ONSC) and the Access to Public Information Unit (UIAP).

As of 2015, JUTEP was established (art. 1, Law 19.340) as a decentralized anti-corruption institution and tasked, among others, with advice on certain offences

committed by certain high-ranking officials contained in articles 10 and 11 of Law 17.060, advice to judicial organs with competence in criminal matters, promoting legislation, training programs and sharing of knowledge that strengthen the transparency of public administration (art. 2, paras. 1, 2, 4, Law 19.340). JUTEP can also suggest amendments of the normative framework governing areas of its competency (art. 3, para. 3, Law 19.340).

JUTEP receives confidential complaints about unethical conduct in public organizations, investigates such complaints and makes recommendations to the institution concerned (art. 2, paras. 1, 3, Law 19.340). The institution concerned then has to decide on whether and how to implement such recommendations.

JUTEP has technical independence (art. 1, Law 19.340). However, its budget has been considerably reduced and important technical posts (the only two lawyers and the only accountant) work in the JUTEP on secondment, having not been permanently assigned to this body.

Uruguay informed the Secretary-General of the United Nations that JUTEP is the authority that can assist other States parties in developing and implementing specific measures for the prevention of corruption.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Law 19.121 regulates the recruitment, retention, promotion and suspension of public officials of the executive with the exception of diplomats, police and other specified officials, and officials of the territorial institutions that have their own statutes. ONSC administers the recruitment system using recruitment by competitive examination and merits; merits and background or a drawing of lots (arts. 1, 3, 55 and 94, Law 19.121). The authorities indicated that such drawing of lots was used only for posts that did not require any education or basic education and could be applied when the quantity of applicants rendered the analysis of their merits and capacity very difficult.

All job openings have to be advertised on a dedicated website, Uruguay Concursa (arts. 15–17, decree 223/013). While no determination of positions especially vulnerable to corruption has taken place, staff rotations are carried out in the area of procurement (art. 23, Law 17.060; art. 24, decree 30/003).

The executive proposes salary scales for each annual budget. The current scale is considered adequate. Before assuming office, public officials take an induction course that covers ethics and anti-corruption.

Criteria concerning candidature for and election to specific public offices such as Senators, Representatives and other as well as disqualification criteria are provided in the Constitution (arts. 90–92, 98, 100, 122–126, 151, 152, 171, 176, 178, 200, 201, 208). Citizen rights, including the right to passive suffrage, is suspended for a certain period of time by a sentence imposing exile, imprisonment, penitentiary or disqualification from exercising political rights for the duration of the sentence; or by being legally prosecuted in a criminal case that may result in penitentiary, which applies to all offences established in accordance with the Convention (art. 80, paras. 2 and 4, of the Constitution).

Political parties and candidates for elected public office are financed through public (arts. 20–32, 39 and 40, Law 18.845) and private contributions (arts. 41–44, Law 18.485). At the time of the country visit, a Special Commission of the Chamber of Senators had been established to analyse a bill that aimed at amending Law 18.485. Any donations to political parties or lists of candidates are limited to a maximum of 300.000 indexed units per recipient per donor (arts. 31, 43, Law 18.485) and, for campaigns, have to be nominative and deposited into bank (art. 31, 32). Other limitations are also established (art. 45). The campaign committee has to register all contributions and is obliged to inform the Electoral Court on them and their origin (art. 17, Law 18.485). The committee is also obliged to present to the Electoral Court an initial campaign budget in which expenses and income foreseen and donations

received to date are reflected, as well as a final statement of accounts and the origin of the used funds; sanctions are established for non-submission (arts. 33, 34, 35, 38 Law 18.485). The statements of accounts presented to the Electoral Court are public and payment of public contributions is only authorized to parties that have presented their statements of accounts (art. 37, Law 18.485). Political parties are also required to annually report on their financial sources (art. 51, Law 18.485). The Electoral Court is mandated to sanction the non-compliance with Law 18.485 (art. 49) but lacks the required resources and training to effectively do so.

Public officials are forbidden from exercising their functions in relation to their private activities to which they are linked and are obliged to declare to their superior if they are in any of the potential conflicts of interest established in chapter 3 of decree 30/003 (arts. 28, 29, decree 30/003).

The rules of conduct for public officials and the sanctions for their violation are provided by Law 17.060, Law 19.121, Ordered Text of Accounting and Financial Administration of the State (TOCAF, Decree 150/012, which replaces the previous ordered text) and decree 30/003 (chapter 2 for rules of conduct, arts. 38 and 39 establish the disciplinary regime). Public officials are obliged to observe the principle of probity and prohibited from intervening in matters that may benefit them or their relatives financially (arts. 20, 21, Law 17.060). The Constitution (art. 59) and decree 30/003 (art. 8) establish the principle that the public official exists for the office and not the office for the official. While there is no uniform code of conduct, several institutions have established their own.

Public officials are obliged to report acts of corruption (art. 177 Criminal Code, art. 40, decree 30/003); however, the procedure for such reporting is not regulated and only some institutions have established internal reporting channels.

Decree 30/003 contains prohibitions for public officials designed to safeguard their integrity, including concerning outside activities and gifts (arts. 25 to 37).

The independence of the judiciary is established by the Constitution (art. 233) and by Law 15.750 (arts. 1, 84). The Supreme Court of Justice adopted the Ibero-American Model Code of Judicial Ethics as applicable to the entire judiciary. The norms of conduct set forth in decree 30/003 are also applicable to the judiciary (art. 2). The Supreme Court of Justice is mandated to decide on disciplinary measures applicable to the judiciary (arts. 100, paras. 2 and 3, 101, para. 3, Law 15.750).

Training for future judges includes an ethics component and training based on the Model Code is a condition for promotion. Judges are obliged to submit asset declarations and cannot practice any outside activities except for specific teaching duties and honorary public offices subject to prior authorization by the Supreme Court of Justice (art. 251 Constitution).

The prosecution service is independent from the judiciary (art. 315 Constitution). An ethics code for the prosecution service was being developed at the time of the country visit. In the meantime, the Model Code and decree 30/003 continue to apply.

Public procurement and management of public finances (art. 9)

Uruguay has a decentralized procurement system, each entity is responsible for its own procurement. The TOCAF systematizes the legislation governing procurement. Procurement has to be carried out through public bidding or another competitive procedure expressly foreseen; however, there is a large number of exceptions established (art. 33 TOCAF), among them: abridged, direct purchases, and direct purchases or purchases using a procedure determined by the authorizer of the purchase for reasons of good administration without a threshold value in cases that are included in an extensive exhaustive list, which includes cases such as the purchase of goods that are notoriously scarce. Purchases can also be done through framework agreements (art. 36), proclamation or downward bidding (art. 34 TOCAF); and special procurement regimes (art. 37 TOCAF). Uruguay has a website for Purchases and

Procurement of the State on which all calls for offers and, in certain cases, other relevant documents have to be published (art. 50 TOCAF).

The Agency for Purchases and Procurement of the State evaluates procurement processes and is in charge of the Single Register of Providers of the State (RUPE) (arts. 151, 76 TOCAF). Anyone interested in concluding contracts with the State is required to register in the RUPE (art. 76 TOCAF). The single set of basic terms and conditions is to be complemented by a specific set of terms and conditions, setting forth inter alia the objective criteria for evaluation and any special or technical conditions required for each procurement (art. 48 TOCAF). Procurement decisions can be appealed, such appeals suspend the process unless the administration declares by substantiated resolution that such a suspension would affect requirements of service that are impossible to postpone or would cause grave harm (art. 73 TOCAF). Officials that have, in the last 12 months, had a link to any of the parties in a procurement process have to recuse themselves from proceedings (art. 72 TOCAF).

The legislative branch is responsible for approving the national budget presented by the executive (art. 214 Constitution). The balance and monthly reports on income and expenditure are posted on the website of the General Accounting Office of the Nation (CGN), which is also responsible for the Integrated System of Financial Information used to record all financial information for the State. The Internal Auditor's Office heads the internal control mechanism (art. 48, Law 16.736) while the Court of Accounts controls public expenditure (art. 228 Constitution).

Article 572 of Law 15.903 regulates the administrative liability of public officials for any breaches related to the management of State assets. Decree 30/003 (art. 23) establishes financial administration standards and sets forth that their breach shall constitute an administrative fault (see also art. 137 TOCAF). To prevent falsification of public accounting documents, a unique user number has been established to trace any changes, and falsification of public documents is a criminal offence (arts. 236, 237 CC).

Public reporting; participation of society (arts. 10 and 13)

Law 18.381 establishes the right of access to public information (art. 3).

Information can be denied if classified as confidential (Law 18.381, arts. 8, 9, 10). Law 19.178 grants the Public Information Access Unit (UAIP) the power to declassify information. Applicants can seek judicial redress or file an administrative complaint with UAIP. Uruguay has implemented a platform for access to public information (www.uaip.gub.uy).

Law 18.381 requires institutions to publish minimum information on their website, including information on their structure, powers, remunerations, compensation, budget, audits, bids and statistical information (art. 5). Decree 232/010 (art. 38) requires the publishing of minutes of decision-making processes.

Uruguay promotes the simplification of administrative procedures through initiatives such as the Open Government Alliance.

JUTEP promotes anti-corruption education programmes, working closely with civil society organizations and universities. UAIP also delivers education programmes for youth on the access to information law, in collaboration with civil society organizations and a public council consisting of representatives from academia, judiciary and civil society.

Private sector (art. 12)

Registration systems of the holders of the entities issuing shares or registered shares and beneficial owners are regulated by Law 18.930 of 2012, Law 19.484 of 2017, and Decree 166/017. JUTEP collaborates with various professional associations on regulating professional responsibilities. However, there is no anti-corruption

framework for the private sector. At the time of the country visit, a draft bill addressing corruption in the private sector existed.

JUTEP lacks resources for developing and implementing a systematic collaboration with the private sector. The authorities indicated that certain private sector entities have codes of conduct, but their implementation is not monitored or promoted by JUTEP.

Measures to prevent money-laundering (art. 14)

The Financial Information and Analysis Unit (FIAU, see art. 58), the Central Bank (UCB) and the National Secretariat for the Fight against Money Laundering and Terrorism Financing (SENACLAFT), dependent on the Presidency of the Republic, are the main bodies in the prevention and repression of money laundering.

Reporting entities include all natural and legal persons under the control of UCB (art. 12, Law 19.574; art. 34, Organic Charter of UCB), as well as enumerated non-financial reporting entities (art. 13, Law 19.574). The UCB is the regulatory and supervisory entity of the financial reporting entities (art. 12, Law 19.574) and SENACLAFT supervises and regulates the non-financial reporting entities (art. 4E, Law 19.574).

Reporting entities have the obligation to, among others, (a) know their clients, including beneficial owners (arts. 14, 15, Law 19.574); (b) report unusual or suspicious transactions (arts. 12, 13, Law 19.574); and (c) keep/retain records for a minimum period of five years (art. 21, Law 19.574).

All cross-border movements of cash, precious metals or other negotiable instruments above USD 10.000 or its equivalents in other currencies has to be declared to the National Customs Directorate (art. 29, Law 19.574; art. 16 Decree 355/010; art. 1, notification 2013/069 of the UIAF) The breach of this obligation is punished (art. 12, Law 19.574).

Regarding electronic transfers of funds, the message that instructs such a transfer has to include precise information about the owner or originator. It has to be ensured that this information remains with the transfer. If the client does not consent to the collection of such information, the operation should not be carried out (arts. 306–308, Compilation of Norms for Regulation and Control of the Financial System (CNRCFS)).¹ The recipient institutions are obliged to have procedures to allow for the detection of received transfers which do not include complete information about the originator and, in these cases, they have to undertake a detailed review of such transfers in order to determine if they constitute an unusual or suspicious transfer that has to be reported to the UIAF (art. 307, CNRCFS).

Uruguay is a member of the Financial Action Task Force of Latin America and of the Group of Experts for the Control of Money-Laundering of the Organization of American States.

2.2. Successes and good practices

- Pay scales for public officials have to be published on the website of each institution (art. 7, para. 1)
- In the framework of GAFILAT, Uruguay has successfully participated in specific exercises to detect the cross-border transport of cash or other negotiable instruments twice a year (art. 14, para. 2).

¹ After the country visit, the authorities indicated that the CNRCFS were updated through a new circular of 30 April 2019.

2.3. Challenges in implementation

It is recommended that Uruguay:

- Further strengthen effective, coordinated anti-corruption measures beyond anti-money-laundering; endeavour to establish and promote effective practices aimed at the prevention of corruption and to establish regular evaluations of relevant legal and administrative instruments and measures with a view to determining their adequacy (art. 5, paras. 1–4);
- Strengthen the independence of JUTEP and provide it with the necessary material resources and specialized staff, including through ensuring that staff is assigned to JUTEP on a permanent basis (art. 6, para. 2);
- Endeavour to identify public positions considered especially vulnerable to corruption, and to adopt adequate procedures for the selection, training and rotation of holders of such positions (art. 7, para. 1 (b));
- Consider taking measures to enhance transparency in the funding of candidatures for elected public office of political parties, including through strengthening capacities and resources for controlling such funding and its compliance with rules on transparency (art. 7, para. 3);
- Continue efforts towards the adoption, by all public entities, of codes of ethics or conduct (art. 8, para. 2);
- Consider taking further measures to facilitate the reporting of acts of corruption by public officials, including through the establishment of clear and dedicated reporting channels (art. 8, para. 4);
- Assess whether the large number of exceptions established for procurement through public bidding or other competitive procedures can be reduced in the interest of transparency and competition (art. 9, para. 1);
- Publish information, which may include reports on the risks of corruption in its public administration (art. 10, subpara. (c));
- Uruguay is encouraged to adopt the Code of Ethics for the prosecution service (art. 11, para. 2);
- Take measures to prevent of corruption in the private sector, in particular by reinforcing cooperation between law enforcement agencies and private entities and encouraging the adoption of private sector ethics or business integrity standards (art. 12, para. 1).

3. Chapter V – Asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Uruguay does not have a specific asset recovery law. All cooperation is based on chapter IX of Law 19.574 concerning the cooperation on fight against money-laundering and on chapters II and IV of the General Procedural Code (arts. 526–543), which regulates mutual legal assistance in general.

In practice, Uruguay can spontaneously exchange information and uses RLAG of GAFILAT and the Egmont Secure Web (ESW) for these purposes.

Uruguay has not concluded any agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to chapter V of the Convention.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Uruguay established the obligation for reporting entities to identify customers and to verify their identity based on their risk level (arts. 14–18, Law 19.574). The beneficial owner must be identified for all accounts (art. 15B, Law 19.574) and it is prohibited to keep anonymous accounts or accounts under fictitious names (art. 14, Law 19.574). Special due diligence procedures must be put in place for domestic and foreign Politically Exposed Persons (PEPs), their connections, family members and close associates (arts. 19A and 20, Law 19.574). “Close associates” are not defined.

Law 19.574 indicates to the reporting entities the categories of clients, commercial relations and operations for which they are expected to apply enhanced due diligence procedures in the application of a risk-based approach (art. 19; art. 299 CNRCFS). Reporting subjects have to implement each due diligence measure, but they can determine the degree of application of the mentioned measures based on the risk and depending on the type of client, commercial relationship, product or operation (art. 16, Law 19.574).

UIAF informs the reporting entities of the identity of national PEPs through a list published on its website. In practice, it could use the list to notify financial institutions of the identity of other natural or legal persons whose accounts should be subject to enhanced scrutiny.

Reporting entities have to maintain records of all operations with or for their clients, as well as all the information relating to the know-your-customer proceedings, for a minimum period of five years after the commercial relation has ended or the occasional operation has been carried out (art. 21, Law 19.574).

In order to operate, financial intermediary companies (including banks, art. 1 CNRCFS) must first obtain the authorization of the Executive and a clearance granted by the Central Bank of Uruguay (art. 1, 6, Decree-Law 15.322). In order for the BCU to issue an opinion, they must provide information on the physical address and, where appropriate, a note by which the supervisory body or bodies of the controlling entity establish that they have no objections to raise with respect to the establishment of a subsidiary in Uruguay and where they state the type of supervision exercised (arts. 16 (a) and 17 (e) and (f) CRNCSF). In case the person that exercises control is a financial institution, consolidated supervision by the supervisor of the country of origin is mandatory (art. 14, para. 6, CRNCSF)

However, correspondent financial institutions shall be subject to regulation and supervision and have policies regarding the acceptance of customers and know-your-customer policies that have been favourably assessed by the local institution; and business relationships with financial institutions from jurisdictions where no physical presence is required shall not be established, nor shall financial institutions establish correspondent relationships with foreign financial institutions if they allow for their accounts to be used by this type of institutions (art. 303, CNRCFS).

Uruguay has established an asset declaration system covering a wide range of specified public officials obliged to declare their assets and income at the start, every two years during and after holding office (arts. 10–19, Law 17.060). Such declarations shall also cover the spouse and any persons under their parental powers (art. 12, Law 17.060). Declarations can only be opened and verified under certain conditions (art. 15, Law 17.060) and JUTEP cannot access databases or bank information. Certain information contained in the sworn declarations is protected by bank secrecy and can only be accessed by the JUTEP once an action has been formally initiated (art. 5, Law 18.930; art. 15, Law 17.060), which limits its control functions. While there is a possibility of deducting up to 50 per cent of the monthly salary of officials that do not declare (art. 99, Law 18.046), a high percentage of non-declaration was reported. Declarations are confidential except for those by the President and Vice President of the Republic.

The competent authorities can share information with foreign counterparts in the context of a mutual legal assistance request.

There is no obligation to declare signature or other authority over financial accounts abroad. However, there is no limitation on the location of the assets that must be declared; therefore, accounts that a public official may own abroad are included (art. 10 Law 17.060). At the time of the country visit, a bill requiring inter alia that all declarations be made public was under review.

Failure to comply with the duty to declare or some cases of false declaration are considered a grave misconduct against a public official's inherent duties (art. 17, Law 17.060). No sanctions in this regard have been established.

The UIAF was established by resolution of the Directorate of the Central Bank of 2000 and can command the institutions subject to the control of the Central Bank to stop, for 72 hours, suspicious operations that could involve assets whose origins proceed from money-laundering and terrorism funding offences (art. 24, Law 19.574). The UIAF receives and analyses information on financial transactions, cooperates with national and international counterparts and is part of the Egmont Group. The UIAF can, based on reciprocity, exchange relevant information for the investigation of money-laundering and terrorism financing with foreign counterparts that make a well-reasoned request for it (art. 27, Law 19.574). Taking the same law as a base, it can sign memoranda of understanding with its counterparts. At the time of the country visit, in addition to the cooperation through the Egmont Group and GAFILAT, the UIAF had signed 3 bilateral memoranda with counterparts since 2017.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Other States can, in their capacity as legal persons, bring civil action in Uruguay to determine title to or ownership of property.

Uruguayan courts can order the payment of compensation or damages, and the authorities confirmed that these provisions would allow for the payment of damages to other States (art. 105 Penal Code; art. 1319 Civil Code).

The competent authorities can recognize the legitimate property rights of another State over property acquired through the commission of an offence of money-laundering or any other predicate offence when having to decide on confiscation through the recognition of the State as a bona fide third party (arts. 55–58, Law 19.574).

The authorities cannot give effect to a foreign confiscation order and mutual legal assistance requests with such orders are subject to the procedural and substantive law of Uruguay (art. 34, Law 17.060; arts. 68, 72, Law 19.574).

The authorities can order the confiscation of assets of foreign origin in a judgement of money-laundering or any other crime, according to the general rules applicable to confiscation (arts. 105, 163 *Quater*, Penal Code, art. 37, Law 19.574).

For some offences established under the Convention, Uruguay has the so-called “confiscation through full rights”, a form of non-conviction based confiscation of assets that had been seized, which can be applied, among others, when the investigated or accused person cannot be found and six months have passed (art. 52, Law 19.574). Likewise, the current normative framework provides for non-conviction based confiscation of assets that had been seized in case the accused dies when their illicit origin or the illegality of the material fact to which they are linked can be proven, without requiring a criminal conviction (art. 54, Law 19.574). Uruguay can execute foreign non-conviction based confiscation decisions in relation to certain offences established in accordance with the Convention through *exequatur* (arts. 537–541, General Procedure Code (CGP)).

For most, but not all, offences established in accordance with the Convention, Uruguay can, based on a request for freezing or seizure request with or without a foreign order, proceed to the requested measure (art. 34, Law 17.060; arts. 68, 72, Law 19.574; art. 530, para. 1, CGP).

In case of a foreign arrest or indictment, courts may adopt measures to preserve the assets for confiscation at their own initiative (art. 535, para. 1, CGP; art. 43, Law 19.574).

Uruguay has not yet received requests from other States for the confiscation of assets located in Uruguay. Thus, the implementation of paragraphs 1 and 2 of article 55 of the Convention cannot be assessed.

The General Code of Procedure and bi- and multilateral treaties regulate the contents of requests for assistance in general without establishing additional requirements for requests related to confiscation. With regard to money-laundering, any request has to be presented duly reasoned, identifying the foreign competent authority and be accompanied by a translation into Spanish (art. 70, Law 19.574). Requests are processed in accordance with Uruguayan Law (art. 525.1, CPG; arts. 68, 72, Law 19.574).

Uruguay provided copies of its laws and regulations aimed at implementing article 55 of the Convention during the review and does not make the adoption of the measures mentioned in paragraphs 1 and 2 of article 55 of the Convention conditional on the existence of a treaty.

When a request regarding money-laundering does not provide sufficient information, its extension or clarification can be requested (art. 75, Law 19.574). In practice, the same applies in non money-laundering matters. If the additional information is not received within the deadline established, the request is rejected.

The authorities confirmed that, in practice, before lifting a precautionary measure, the requesting State will have the opportunity to present its reasons in favour of maintaining the precautionary measure in force.

There are provisions to protect the rights of bona fide third parties (arts. 335, 336 CGP; arts. 55, 57, Law 19.574).

Return and disposal of assets (art. 57)

In the Penal Code, it is established for certain offences established in accordance with the Convention that the confiscated proceeds will belong to the State, without prejudice to bona fide third parties' rights (art. 163 *Quarter*). Assets confiscated according to Law 19.574 are to be made available to the National Board on Drugs that will have the ownership and disposal of them (art. 59). The protection of bona fide third parties is foreseen (arts. 55–58, Law 19.574).

There are no specific provisions that establish the obligation to return assets in the cases foreseen by the Convention.

In direct application of the Convention, Uruguay can deduct reasonable expenses incurred in investigations or judicial proceedings for asset recovery or disposal.

Uruguay has not concluded any specific agreements for the final disposal of confiscated assets, although Law 19.574 explicitly allows for the conclusion of asset sharing agreements for confiscated proceeds of transnational organized crime (art. 60). Law 19.574 does not define these offences. Certain treaties on cooperation in criminal matters (with Ecuador, Spain, the United States of America and Mexico) establish that the State that has custody of the assets shall dispose of them according to its domestic law and provide for the possibility to transfer the confiscated assets or the proceeds of their sale to the other State, to the extent permitted by law and according to the terms deemed appropriate. The treaty with the Bolivarian Republic of Venezuela provides the same. With regard to the disposal of assets, this treaty establishes that the assets will be disposed of in accordance with the domestic law of

the State in whose custody they are unless the assets form part of the patrimony of the requesting State (art. 22, para. 3).

3.2. Successes and good practices

- The FIAU publishes a non-exhaustive list of national PEPs on its web site (art. 52, para. 1).

3.3 Challenges in implementation

It is recommended that Uruguay:

- Conduct enhanced scrutiny of accounts sought or maintained by or on behalf of legal persons that are close associates of individuals who are, or have been, entrusted with prominent public functions, e.g. through introducing a definition of “close associates” that would include such legal persons (art. 52, para. 1);
- Endeavour to strengthen measures related to asset declarations, including by taking measures to enhance compliance with the obligation to declare, establishing the possibility to conduct ex officio checks of declarations and enabling the cross-checking of information contained in the declarations even before formally initiating an action under Law 17.060, which could be covered through the bill under consideration; and consider establishing adequate specific sanctions for non-compliance with the duty to declare financial information and requiring appropriate public officials having an interest (different from ownership) in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts; and study the possibility of strengthening the verification system for such declarations (art. 8, para. 5; art. 52, paras. 5 and 6);
- Adopt measures to allow its competent authorities to give effect to a foreign confiscation order (art. 54, para. 1 (a));
- Consider adopting measures to allow the non-conviction based confiscation of assets in all cases of art. 54, para.1 c);
- Adopt measures to allow its competent authorities to give effect to the freezing or seizure of assets in compliance with a foreign request for all offences established in accordance with the Convention (art. 54, para. 2 (a) and (b));
- Adopt measures for the return and disposal of confiscated assets according to article 57, paragraphs 1 to 3 of the Convention, taking into account the rights of bona fide third parties (art. 57, paras. 1 to 3); and ensure that confiscated property is returned to the requesting State party in accordance with article 57, paragraph 3 of the Convention, including in cases in which bilateral or multilateral treaties would foresee otherwise (art. 57, paras. 3 and 5);
- Assess if the powers of the UIAF to prevent suspicious transactions could be extended to all offences established in accordance with the Convention (art. 58);
- Consider concluding agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to chapter V of the Convention (art. 59).