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## **Implementation Review Group**

### **Fifth session**

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Agenda item 2

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

## **Executive summary: Solomon Islands**

### **Note by the Secretariat**

The present conference room paper is 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 fourth year of the first review cycle.



## II. Executive summary

### Solomon Islands

#### 1. Introduction: Overview of the legal and institutional framework of Solomon Islands in the context of implementation of the United Nations Convention against Corruption (UNCAC)

Solomon Islands acceded to the United Nations Convention against Corruption (UNCAC) on 6 January 2012. UNCAC entered into force on 5 February 2012.

Solomon Islands was granted self-government in 1976 and achieved political independence on 7 July 1978. At independence, Solomon Islands adopted a Constitution, enacted as a schedule of the Solomon Islands Independence Order 1978. Section 75 of the Constitution authorizes the Solomon Islands Parliament to enact provisions for applicable laws, including customary law.

The Constitution is the supreme law of Solomon Islands, and any inconsistent law shall, to the extent of the inconsistency, be void. The Constitution confers on the Solomon Islands Parliament the power to make laws for the “peace, order and good government of Solomon Islands”. Acts of the United Kingdom Parliament, in force since 1 January 1961, were adopted by Schedule 3 of the Constitution, subject to the Constitution and to Acts of the Solomon Islands Parliament. Customary law is next in the legal hierarchy, and is provided for by Schedule 3 paragraph 3 of the Constitution and is defined in Article 144(1) of the Constitution to include “rules of customary law prevailing in an area of Solomon Islands.” The principles and rules of common law and equity are recognized by virtue of Schedule 3 paragraph 2 of the Constitution. Although the Constitution does not identify the provenance of the common law, the High Court has presumed it to be that of the United Kingdom. Generally, common law applies when it is not inconsistent with the Constitution or Acts of Parliament or customary law and when not inapplicable to or inappropriate in the circumstances of Solomon Islands.

The judiciary is a separate and independent branch of government. The Constitution established a High Court and a Court of Appeal. The High Court has unlimited jurisdiction and can hear appeals from all subordinate courts. Constitutional questions arising in the lower courts are referred to the High Court for interpretation. The Court of Appeal hears appeals from the High Court in civil and criminal matters. The Chief Justice of the High Court also sits *ex officio* on the Court of Appeals. There are three subordinate courts: the Magistrates’ Court, the Local Court and the Customary Land Appeal Court. Magistrates’ Courts have jurisdiction over civil and criminal cases. Local Courts, whose members are appointed by the Chief Justice, preside over minor offenses, customary law issues and customary land matters. Customary Land Appeal Courts hear appeals from Local Courts on points of custom in relation to customary land.

Although the government is committed to establishing such an institution, there is no single dedicated body specialized in combatting corruption through law enforcement in Solomon Islands, although there is an Anti-Corruption Investigations Unit within the Royal Solomon Islands Police Force (RSIPF). In addition, there are several “integrity agencies” to promote integrity and professionalism in the public and private sectors, which are coordinated through the Integrity Group Forum. Its

members include: the Anti-Corruption Unit within the RSIPF, the Solomon Islands Financial Intelligence Unit (SIFIU), the Office of the Director of Public Prosecutions (ODPP), the Correctional Service of Solomon Islands, the Customs and Excise Division, the Leadership Code Commission (LCC), the Office of the Auditor General (OAG), and the Ombudsman.

The RSIPF, Department of Customs and the Leadership Code Commission are sources of referral of corruption cases for criminal prosecution to the ODPP. In 2004, the Anti-Corruption Unit within the RSIPF was established to investigate corruption of public officials. The Unit maintains a Memorandum of Understanding (MOU) with the Solomon Islands Financial Intelligence Unit (SIFIU).

The SIFIU reports to the Anti-Money-Laundering Commission, which is chaired by the Attorney General. The FIU provides quarterly reports to the Commission and is staffed by three officers of the Central Bank of Solomon Islands and one seconded officer from the RSIPF.

The ODPP was established soon after independence in 1978. The Office is governed by the standards of independence set forth in Article 91(7) of the Constitution.

## **2. Chapter III: Criminalization and law enforcement**

### **2.1. Observations on the implementation of the articles under review**

#### *Bribery and trading in influence (arts. 15, 16, 18 and 21)*

Active and passive bribery of public officials are established as criminal offences under Section 91 of the Penal Code (Cap 26), and apply to all persons, including public officials, with regard to the conferral of any benefit. The Leadership Code (Further Provisions) Act 1999 also permits administrative sanctions and monetary penalties to be imposed against leaders who engage in bribery. Such administrative penalties supplement, and do not replace, criminal proceedings, where appropriate. Bribery of foreign public officials is not currently addressed in the Penal Code.

Section 91 of the Penal Code also applies *mutatis mutandis* in significant part to cases involving the active and passive trading in influence. The statute omits, however, the purpose that the person or public official exercise his or her “real or supposed influence” to obtain an undue advantage from an administration of public authority.

Active and passive bribery in the private sector is made criminal under Section 374 of the Penal Code. The scope of the legislation applies to agency cases exclusively, however, and it may be beneficial to consider broader legislation to meet the scope of UNCAC.

#### *Money-laundering, concealment (arts. 23 and 24)*

Section 17 of the Money-Laundering and Proceeds of Crimes (Amendment) Act 2010 (MLPCA 2010) makes it an offence to convert, transfer, acquire, possess, use, conceal or disguise the true nature, origin, location, disposition, movement or ownership of any property or proceeds of any property, knowing having reasonable grounds to believe or suspect that all or part of the property or proceeds was obtained or derived from the commission of a criminal offence. Section 17(4) of MLPCA 2010 makes it an offence, subject to the same penalties, to attempt,

facilitate, aid and abet, conspire, counsel, procure or incite another person to commit money-laundering. The statute does not designate predicate offences, but applies to all proceeds of crime. It is not necessary to prove which crime was committed. Solomon Islands reported that this statute also applies to acts or omissions taking place outside of Solomon Islands, so long as the conduct would satisfy dual criminality requirements.

The maximum penalty for the money-laundering offence is ten years imprisonment together with a fine depending on whether the offender is a natural or legal person. Section 17 of MLPCA 2010 expressly provides that a person can be convicted of both money-laundering as well as the underlying offence.

Solomon Islands is in the process of officially furnishing copies of its money-laundering legislation to the Secretary-General of the United Nations.

Criminal concealment is addressed in Sections 17 of the MLPCA 2010 and 386 of the Penal Code, which meet the requirements of UNCAC.

*Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)*

Embezzlement is addressed in Section 258 of the Penal Code, and covers both the public and private sectors. Special categories of theft are addressed in Sections 94, 267, 268 and 273.

Section 96 of the Penal Code broadly addresses the abuse of functions by public officials, and provides for enhanced penalties if done for the purpose of “gain.”

While under the Leadership Code (Further Provisions) Act 1999, certain public officials are required to submit declarations of assets and interests, there is no provision in the Penal Code to make illicit enrichment a criminal offence.

*Obstruction of justice (art. 25)*

Sections 114 and 116 of the Penal Code broadly make it an offence to influence or interact with a person in any way that induces false testimony or interferes in the production of evidence. Sections 121, 122 and 123 of the Penal Code make it an offence to do anything, including the use of physical force, threats or intimidation that interferes with judicial proceedings or the course of justice. These offences apply broadly to any person, are not specific to justice and law enforcement officials, and are treated as misdemeanours (minor offences).

*Liability of legal persons (art. 26)*

Section 16 of the Interpretation and General Provisions Act (Cap 85) defines “person” as both natural and legal persons, thereby extending liability for UNCAC offences to legal persons. There has, however, been some doubt regarding its application to criminal laws applicable to corporate entities that were in existence at the time of its adoption. Solomon Islands confirmed that such liability does not prejudice the criminal liability of natural persons who commit the same offence. Although monetary penalties can be imposed for money-laundering offences committed by legal persons, similar penalty provisions are not provided for other offences. It was noted, however, that deregistration is a possible consequence in the Companies Act (Cap 175).

*Participation and attempt (art. 27)*

Sections 21 and 23 of the Penal Code extend liability to anyone who aids, abets, counsels or procures a criminal offence. Section 378 defines the attempt to commit a criminal offence and section 379 criminalises it. Preparation to commit a criminal offence is not criminalized except to the extent that it constitutes an attempt.

*Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)*

Under the Penal Code, punishment is imposed in proportion to the gravity of the offence and the degree of responsibility of the offender, including ranges for both imprisonment and fines. An exception has been identified by the reviewing experts in relation to the punishment of conducts of obstruction of justice (see above discussion and related recommendation).

Although functional immunities apply to certain categories of public officials, including parliamentarians, judges, prosecutors and members of some administrative bodies, these immunities are not a barrier to criminal investigation or prosecution relating to corruption.

Section 91 of the Constitution sets forth a wide range of discretionary powers afforded to the Director of Public Prosecution. Guidance is provided in the Prosecution Policy of 14 May 2009, which defines the role, jurisdiction and factors that govern the discretion of public prosecutors.

Sections 90, 95 and 144 of the Criminal Procedure Code (Cap 7) regulate the detention and conditional release of persons being prosecuted, taking into account the need to ensure public safety and the accused's appearance at subsequent proceedings. Early release from prison is governed by Section 70 of the Correctional Services Act 2007, which includes eligibility criteria, including the seriousness of the offence.

Part VII of the Public Service Commission Regulations 1998 permits the removal, suspension or reassignment of a public servant who has been accused of any criminal offence (including corruption) pending the outcome of the investigation. Disciplinary proceedings take place upon completion of the criminal proceedings. For criminal offences, the High Court can prohibit the holding of public office upon conviction. Under the Correctional Services Act, the reintegration of offenders into society is promoted by social and vocational rehabilitation programme, including services offered post-release.

Regarding cooperation with law enforcement, Paragraph 17 of the Prosecution Policy provides discretion when working with informers, including co-offenders, to offer immunity, mitigation of charges or possible penalties, or make other agreements in exchange for cooperation and testimony. Paragraphs 12, 18 and 21 of the Policy guides the prosecutor's role at sentencing, factors to consider in granting immunity and engaging in charge negotiations.

*Protection of witnesses and reporting persons (arts. 32 and 33)*

At the time of the review process, there was no legislation or operational mechanism for the protection of witnesses and experts. It was reported that, in principle, testimony taken via video link would be admissible under the Evidence

Act 2009, although there are no specific provisions that address the issue and no examples were available where such means were invoked as a protective measure. Paragraph 25 of the Prosecution Policy sets forth the obligations of the prosecutor with respect to the victim, including keeping the victim informed at all stages of the proceedings and taking into account the views of the victim.

With regard to persons reporting corruption, there were similarly, at the time of the review, no measures in Solomon Islands to provide protection against unjustified treatment for persons reporting in good faith and on reasonable grounds instances of corruption.

*Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)*

Section 33 of the MLPCA 2010 provides the mechanism for the identification, freezing and forfeiture of criminal assets. This includes the forfeiture of assets acquired as a direct result of criminal activity or property purchased by such assets up to the value of the criminal proceeds. Instrumentalities of the offences may be forfeited in their entirety. Search warrants may be issued authorizing the seizure of property acquired through criminal proceeds or the instrumentalities of an offence. The definition of “proceeds of crime” contained in Section 2 of the MLPCA 2010 includes property that has been converted, transformed or intermingled on a proportional basis. It also includes any income, capital or economic gain derived from the property. Section 38 of the MPLCA 2002 provides that where the property cannot be found, is located outside of Solomon Islands, has been transferred to a bona fide third party or cannot be divided without difficulty, the court may order a fine to be imposed in the amount of the criminal proceeds.

Section 65 of the MLPCA 2002 provides the mechanism for the administration of seized property. The Court may appoint a receiver with respect to real or movable property, who takes custody under a fiduciary responsibility until final disposition as determined by the Court.

Bank secrecy does not prevent the prosecutor, upon a court order, to request and obtain financial records relating to the proceeds of crime.

*Statute of limitations; criminal record (arts. 29 and 41)*

In Solomon Islands, there is no statute of limitations period for criminal offences, including for corruption offences.

Section 114 of the Evidence Act 2009 deems all documents legally and properly filed in a foreign court to be authentic and admissible in a court in Solomon Islands as long as they are relevant to the proceedings. This would include documents and evidence relating to criminal proceedings in a foreign jurisdiction.

*Jurisdiction (art. 42)*

Solomon Islands has jurisdiction over the offences established in accordance with the UNCAC when the offence is committed in whole or in part in its territory. This includes jurisdiction over offences committed on board vessels that fly the flag of Solomon Islands and aircraft registered under the laws of the country at the time of commission of the offences.

Solomon Islands primarily enforces its law through the exercise of territorial jurisdiction, and has chosen not to extend jurisdiction to offences committed against a national, a stateless person, offences committed by a national outside of the territorial jurisdiction or offences committed against the State. Section 17 of the MLPCA 2010 is unclear with respect to jurisdiction over cases where the underlying offence is committed outside the country and the money-laundering activity occurs in the territory of Solomon Islands. Some legislative clarification may be required in this regard.

Solomon Islands exercises jurisdiction over offences committed outside of the territory when the alleged offender is a national of Solomon Islands, is present in Solomon Islands and is not extradited on the grounds of nationality.

*Consequences of acts of corruption; compensation for damage (arts. 34 and 35)*

Solomon Islands reported that principles of common law permit the consideration of corruption as a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or take any other remedial action.

Measures exist in civil proceedings to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal action claiming compensation from those responsible for the damage. Relevant legal rules are provided by the common law.

*Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)*

As detailed above, Solomon Islands has established specialized services in the Police Force in the area of anti-corruption and law enforcement.

The Integrity Group Forum in Solomon Islands, detailed above, facilitates cooperation among national authorities and the reporting of allegations of corruption. It was noted, however, that additional steps could be taken to streamline the ability of some State institutions to refer cases to the Police Force for investigation. For example, the OAG is unable to refer possible criminal cases to the Police Force without first tabling a report in Parliament. It was further noted that when a potential criminal conduct constitutes a violation of the Leadership Code, separate investigations are carried out by the Police Force and the Leadership Code Commission, with no formal mechanism to allow sharing of information or outcomes. Finally, it was reported that while the FIU does refer cases to the Police Force for investigation, there is an ongoing serious backlog in cases that hinders the effectiveness of investigations.

With regard to cooperation with the private sector, the FIU works closely with banks and financial institutions to identify suspicious transactions that may indicate money-laundering, terrorist financing or other offences, and provides regular training to financial institutions, cash dealers and legal practitioners on proper record-keeping and reporting practices. In addition, the Leadership Code Commission conducts regular public awareness and outreach programmes to educate the public on the effects of corruption and how to report complaints.

## 2.2. Successes and good practices

Overall, the following successes and good practices in implementing Chapter III of the UNCAC are highlighted:

- Breadth and diversity of legislative and other measures taken to address bribery by public officials, leaders and customs officers, through criminal provisions as well as administrative bodies.
- Scope of the legislation addressing money-laundering to cover persons having reasonable grounds to believe or suspect the property consists of proceeds from a criminal offence.
- Absence of a statute of limitations period for criminal offences, including UNCAC offences.
- Deployment of an expert from the Police Force in the FIU to strengthen investigative capacity and improve coordination.

## 2.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- Consider amending the definition of “person employed in the public service” to include government ministers, consistent with recent case law.
- Adopt legislation to make criminal the active bribery of foreign public officials. Consider adopting legislation to make criminal the passive bribery of foreign public officials.
- Consider adopting specific legislation to make it a criminal offence to engage in the active or passive trading in influence.
- Consider adopting legislation to broaden the scope of the law making bribery in the private sector a criminal offence, extending to any person who directs or works for a private sector entity.
- Consider adopting legislation to make illicit enrichment a criminal offence.
- Consider amendments to the Money-Laundering and Proceeds of Crime Act to expressly permit jurisdiction in cases where the underlying offence occurred entirely outside the territory of Solomon Islands.
- Furnish a copy of the MLPCA 2002, MLPCA 2004, MLPCA 2010 and any subsequent amendments thereto to the Secretary-General of the United Nations.
- Adopt legislation addressing obstruction of justice against justice officials, as provided in article 25 of UNCAC. Amend legislation addressing obstruction of justice to ensure that the related offences are subject to appropriate penalties upon conviction.
- Clarify application of the Interpretation Act to laws in force at the time of passage and adopted thereafter to extend liability to legal persons for UNCAC offences.

- Establish in legislation effective, proportionate and dissuasive sanctions, including monetary sanctions, that legal persons are subject to for the commission of UNCAC offences.
- Consider adopting legislation or procedures to disqualify, for a period of time, a person convicted of an UNCAC offence from holding public office or an office in any state owned enterprise or statutory body.
- Adopt legislation or other appropriate measures to provide effective protection for witnesses, victims and experts, in accordance with article 32 of UNCAC.
- Consider adopting appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds instances of corruption, in accordance with article 33 of UNCAC.
- Take additional measures to strengthen cooperation and facilitate information sharing among national authorities, including the Integrity Forum, in the investigation and prosecution of UNCAC offences, through training, deployment of personnel, and material resources, where necessary and appropriate.
- Consider entering into agreements or arrangements with other States parties to facilitate assistance of cooperating offenders under article 37(5) of UNCAC.
- Consider adopting such measures as may be necessary to establish jurisdiction over offences established in accordance with the UNCAC, in line with article 42(2) of UNCAC.

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

The following technical assistance needs were identified:

- Legislative drafting, model legislation, model agreements/arrangements and legal advice with regard to Articles 15 (Bribery of national public officials), 16 (Bribery of foreign public officials), 17 (Embezzlement, misappropriation or other diversion of property by a public official), 20 (Illicit enrichment), 21 (Bribery in the private sector), 25 (Obstruction of justice), 26 (Liability of legal persons), 30 (Prosecution, adjudication and sanctions), 31 (Freezing, seizure and confiscation), 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons), 37 (Cooperation with law enforcement authorities) and 38 (Cooperation between national authorities).
- Good practices/lessons learned with regard to Articles 18 (Trading in influence), 19 (Abuse of functions), 20 (Illicit enrichment) and 26 (Liability of legal persons).
- Capacity-building assistance to national authorities with regard to Articles 22 (Embezzlement of property in the private sector), 23 (Laundering of proceeds of crime), 31 (Freezing, seizure and confiscation), 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons) and 39 (Cooperation between national authorities and the private sector).

- On-site assistance of an anti-corruption expert with regard to Articles 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons) and 36 (Specialized authorities).
- Development of an action plan for implementation of Articles 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons), 36 (Specialized authorities) and 39 (Cooperation between national authorities and the private sector).

### **3. Chapter IV: International cooperation**

#### **3.1. Observations on the implementation of the articles under review**

*Extradition; transfer of sentenced persons; transfer of criminal proceedings  
(arts. 44, 45 and 47)*

In Solomon Islands, extradition is regulated by the Extradition Act 2010 (EA 2010). Pursuant to section 2, an extradition country includes a Commonwealth country, Forum Country, treaty country and comity country. A comity country is defined to be an extradition country by regulation or as certified by the Government for the purpose of a particular request (s.42, EA 2010). Solomon Islands joined the Commonwealth in 1978 and despite not having used it to date, could rely upon the London Scheme for Extradition within the Commonwealth of 2002 (London Scheme). Solomon Islands does not have any additional extradition agreements or arrangements in existence.

Conduct-based dual criminality is required with a penalty threshold of imprisonment, or other deprivation of liberty, for a period of not less than 12 months (s.4(1)(b) EA 2010).

Solomon Islands does not make extradition conditional on the existence of a treaty with Commonwealth, Forum or comity countries, but does with other States. Section 5 of the EA 2010 contains a comprehensive list of grounds for refusing extradition, including where the extradition offence is regarded as a political offence and there are substantive grounds to believe extradition may be sought for purposes of prosecution or punishment of a person because of race, religion, nationality, political opinions, sex or status. Solomon Islands will also not refuse an extradition request on the sole ground that the offence involves fiscal matters (s.4(4), EA 2010).

There are general but also different evidentiary requirements in EA 2010, depending on the country requesting the extradition. In general, the Magistrate will conduct the extradition proceedings (s.14). However, the requirements differ if the requesting State is a Commonwealth country (Part 4), other Forum Country (Part 5), treaty country (Part 6) or comity country (Part 7). Under EA 2010, Solomon Islands can provisionally arrest an individual in anticipation of a request for extradition.

Under the Solomon Islands Constitution and EA 2010, persons sought in extradition proceedings benefit from due process and fair treatment throughout the process, similar to any other ordinary criminal proceeding (s.15(1), EA 2010).

Extradition may be refused on the sole grounds that the person sought is a citizen of Solomon Islands, but s/he may then be prosecuted in Solomon Islands (s.56, EA 2010). However, a citizen can be extradited to the requesting State for purposes of trial only, as ordered by a Magistrate or judge (s.58, EA 2010). Solomon

Islands could consider the enforcement of a sentence (or the remainder thereof) imposed by a requesting State, but no such request has been made to date.

As a matter of practice, consultations take place with requesting States before refusing extradition.

Solomon Islands does not have substantial experience in dealing with extradition. In the last 10 years, only two (not corruption-related) extradition requests have been received with one granted and none sent.

The competent authority responsible for extradition in Solomon Islands is the Ministry of Justice.

The transfer of sentenced persons is partially addressed in the Correctional Services (Amendment) Act 2008. Section 74A provides for prisoners who are not citizens of Solomon Islands to be transferred to their country of nationality upon request of the prisoner and agreement of the government. Solomon Islands is also de facto part of the Scheme for the Transfer of Convicted Offenders within the Commonwealth. However, it has not used this Scheme and has not entered into any further agreements or arrangements on the transfer of sentenced persons.

The transfer of criminal proceedings is possible pursuant to section 65 of the Criminal Procedure Code where the offence was committed outside jurisdiction of Solomon Islands.

*Mutual legal assistance (art. 46)*

The Mutual Assistance in Criminal Matters Act 2002 (MACMA) regulates issues pertaining to the provision of mutual legal assistance (MLA). In principle, the Scheme relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth also applies, but has not been used in practice.

Pursuant to MACMA, dual criminality is required in order to grant MLA in cases where the potential penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months. This includes purely fiscal offences. In cases where the dual criminality requirement is fulfilled, Solomon Islands can afford a requesting State the widest measure of MLA with the approval of the Attorney-General, and so long as the request falls within the forms of international assistance specified in the Act (s.6, MACMA) or refers to the nature or extent of such assistance in investigations or proceedings in criminal matters which Solomon Islands may lawfully give to foreign States (s.5, MACMA). MACMA also permits the consensual transfer of detained persons from Solomon Islands in response to an MLA request.

Solomon Islands requires the submission of an MLA request before information can be transmitted. Evidence and other materials obtained through MLA cannot be used for a purpose other than that specified in the request, unless the Attorney-General consents after consulting with the foreign State (s.17, MACMA). Foreign documents that may be provided in MLA proceedings are also privileged (s.16, MACMA). After consulting with the requesting State, Solomon Islands may postpone an MLA request where it is likely to prejudice an ongoing investigation or proceeding (s.4(2)(c), MACMA).

There are no obstacles to disclosing information for an MLA request in relation to offences concerning money-laundering and proceeds of crime (s.111, MLPCA 2010). Moreover, bank secrecy and an offence involving fiscal matters are not included among the grounds for refusal listed in MACMA (s.4).

In the last 10 years, two mutual legal assistance (corruption-related) requests have been received with one being granted and none sent.

*Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)*

Solomon Islands has various means to facilitate law enforcement cooperation, including joint investigations. It has an arrangement with the Regional Assistance Mission to Solomon Islands (RAMSI) and the Australian Federal Police (AFP) on direct cooperation. As part of the Pacific Transnational Crime Network (PTCN), AFP through its Law Enforcement Cooperation Program established the Transnational Crime Unit (TCU) under the RSIPF.

Solomon Islands is party to the multilateral agreement that established PTCN in the region, a multilateral arrangement between Pacific Chief of Police, and arrangements established through the Pacific Islands Forum Secretariat and Melanesian Spearhead Group.

Solomon Islands police officers have benefited from RAMSI and AFP assistance in the form of trainings, resources and an in-country advisory service, as personnel continues to be seconded in the RSIPF and other Government departments.

FIU has a mandate to exchange financial intelligence with other States in relation to money-laundering and terrorist financing. Information received by FIU is shared as appropriate with the RSIPF and other relevant agencies. FIU has signed four memoranda of understanding with foreign FIUs. It is also a member of the Pacific FIU Association, Asia/Pacific Group on Money-Laundering and Egmont Group of FIUs.

### **3.2. Successes and good practices**

Overall, the following success and good practice in implementing Chapter IV of the UNCAC is highlighted:

- Solomon Islands' international law enforcement cooperation, especially through RAMSI and AFP.

### **3.3. Challenges in implementation**

The following challenges and recommendations were highlighted by the reviewers:

- Consider granting extradition requests that include several separate offences, one of which is extraditable.
- Consider using UNCAC as a legal basis for extradition, mutual legal assistance and law enforcement cooperation in respect of UNCAC offences.
- Ensure that any extradition treaties that Solomon Islands may conclude with other Member States contain references to UNCAC offences as being extraditable.

- Consider simplifying and streamlining procedures and evidentiary requirements (such as internal guidelines and/or a request management system) in order to allow for extradition and MLA requests to be dealt with efficiently and effectively.
- Take such legislative measures as may be necessary to ensure that MLA involving non-coercive measures is afforded in the absence of double criminality, in line with article 46(9)(b) of UNCAC.
- Notify the Secretary-General of the United Nations of the central authority designated for MLA, as well as the acceptable language for executing MLA requests.
- Consider entering into agreements or arrangements on the transfer of sentenced persons in order for such persons to complete their sentences in the requested countries.
- Consider granting legal authority to the Attorney General to proactively transmit information to a foreign competent authority in relation to MLA, without a prior request, where such information could assist in the investigation and prosecution of UNCAC offences.
- Consider introducing special investigative techniques, as may be necessary and within existing resources, and providing the corresponding training to law enforcement personnel.

#### **3.4. Technical assistance needs identified to improve implementation of the Convention**

The following technical assistance needs were identified:

- Summary of good practices/lessons learned in relation to extradition, MLA and special investigative techniques.
- Legal advice on how to improve extradition, MLA and special investigative techniques.
- Capacity-building programmes for authorities responsible for international cooperation in criminal matters and for cross-border law enforcement cooperation, as well as for designing and managing the use of special investigative techniques.
- Development of an international cooperation record-keeping system, as well as extradition and MLA templates for requesting States and internal guidelines for staff on how to deal with international cooperation requests.
- Technological assistance (e.g. set-up and management of databases/information-sharing systems) to enhance law enforcement cooperation.
- On-site assistance by a relevant expert in particular in relation to law enforcement cooperation.
- The development of an action plan for implementation.