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## **Implementation Review Group**

### **Resumed fourth session**

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Agenda item 2

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

## **Executive summary: Trinidad and Tobago**

### **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 third year of the first review cycle.



## Executive summary

### Trinidad and Tobago

#### 1. Introduction: Overview of the legal and institutional framework of Trinidad and Tobago in the context of implementation of the United Nations Convention against Corruption

Trinidad and Tobago is a unitary twin island democratic state and a former British colony. Its parliamentary democracy is therefore modelled on the English Westminster System. Trinidad and Tobago ratified the United Nations Convention against Corruption (“UNCAC”) on 31 May 2006.

Trinidad and Tobago became independent in 1962 and adopted a Republican Constitution in 1976, replacing the British Monarch with a President elected by Parliament as the Head of State. The Constitution provides for the separation of powers into three branches of Government: the Executive, the Legislature and the Judiciary.

Executive power is vested in the President, who acts in accordance with the advice of Cabinet except where otherwise stated by the Constitution. The Cabinet consists of the Prime Minister, who is leader of the majority political party in Parliament, the Attorney General and other Ministers of Government appointed by the Prime Minister from among the members of Parliament. The Constitution vests the Cabinet with the general direction and control of the Government and makes it collectively responsible to Parliament.

Legislative authority resides in a bicameral Parliament, comprised of the Upper House (the Senate) and a Lower House (the House of Representatives). Under the Municipal Corporations Act, 1990, Local Government Councils administer Regional, City, and Borough Corporations. To become law, legislation must receive a majority vote in both chambers and be approved by the President. Certain legislation, such as that which affects Constitutional rights, must achieve an elevated majority in both chambers.

The Judiciary comprises the superior courts (the Supreme Court of Judicature consisting of a High Court of Justice and a Court of Appeal), the inferior courts (the Magistrate Courts), and the Privy Council, which is the Highest Appellate Court.

The law of Trinidad and Tobago is based upon the common law of England and statutes of general application in force in England in 1848 as modified by subsequent local legislation. Although there is no consolidated criminal code, criminal offences arise out of either the common law (e.g. homicide) or out of statute (e.g. money-laundering).

In addition to the police service, there are several bodies and structures specializing in the detection, investigation and judicial handling of corruption affairs.

#### *The Integrity Commission*

The Integrity in Public Life Act, 2000, established the Integrity Commission, which is mandated to investigate complaints of corruption against persons in public office. It also requests and verifies asset declarations of senior public officials. Members

are appointed by the President, after consultation with the Prime Minister and leader of the Opposition. Commissioners may only be removed by the President.

#### *Trinidad and Tobago Police Service*

The Anti-Corruption Investigation Bureau is an independent body and is staffed by police officers from the Trinidad and Tobago Police Service. The Fraud Squad is located within the Trinidad and Tobago Police Service. Both these institutions investigate corruption matters in accordance with their mandates.

#### *Director of Public Prosecutions*

Section 90 of the Constitution established the position of the Director of Public Prosecutions (“DPP”) and outlined its mandate. The Prevention of Corruption Act, 1987 authorises the DPP to initiate investigations of corruption.

#### *Service Commissions*

The Constitution established the following service commissions to carry out investigations into misconduct or matters of corruption: Public Service Commission, Police Service Commission, Teaching Service Commission and Public Service Appeal Board. Members are appointed, and may only be removed, by the President. A person who has served as a member of a Service Commission shall not be eligible for appointment to any public office for three years following service.

#### *The Ombudsman*

The Ombudsman was established under Section 91 of the Constitution and has the responsibility to investigate complaints made by a governmental department or authority, including matters of corruption. The Ombudsman is appointed by the President and is an officer of Parliament, and shall not hold any other office or occupation.

#### *Police Complaints Authority*

The Police Complaints Authority Act, 2006, established this independent body, which is responsible for the investigation and active monitoring of complaints of corruption and misconduct within the police service. The Director and Deputy Director are appointed by the President on the joint advice of the Prime Minister and Leader of the Opposition, and cannot have previously served as a police officer.

#### *Commissions of Enquiry*

The Commissions of Enquiry Act, 1892, granted power to the President to form a commission to conduct an enquiry into the conduct of public officers on matters of public welfare, including matters of corruption. No commissioner shall be liable to any action or suit for any act committed as commissioner. Commissioners are not entitled to any remuneration, unless approved by Parliament.

#### *Financial Intelligence Unit (“FIU”)*

The FIU was established under the Financial Intelligence Unit Act, 2009, and is the primary institution for the collection, analysis, dissemination and exchange of

financial intelligence and information among domestic and international law enforcement authorities, financial institutions and businesses. Its officers are appointed by the Public Service Commission.

## **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)*

Bribery of public officials is made criminal in Section 3 of the Prevention of Corruption Act, 1987. Although the statute uses the word “agent” to refer to the person receiving the bribe, this term, defined in Section 2 of Prevention of Corruption Act, 1987, is similar in scope to “public official” in UNCAC. Section 3 differentiates active and passive bribery, and is consistent with the requirements of UNCAC. However, the statute does not include the term “entity” among the beneficiaries of the undue advantage, which is required under both articles 15 and 16 of UNCAC.

Bribery of foreign public officials, active and passive, is not currently addressed in the legislation of Trinidad and Tobago.

Although Trinidad and Tobago has adopted legislation requiring public officials to act fairly and impartially in the exercise of public duties, there is no criminal offence that addresses active and passive trading in influence.

Active and passive bribery in the private sector is not currently addressed in the legislation of Trinidad and Tobago.

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

Sections 43 to 46 of the Proceeds of Crime Act, 2000 (“POCA”) address money-laundering in both criminal and preventive aspects, and cover all acts relating to concealing, disposing, transferring, converting and disguising proceeds of crime. Offences of attempt and conspiracy are addressed through common law.

A conviction for money-laundering may result in a prison sentence of five to ten years, and commission by an organized criminal group or a person using facilities provided by his or her professional activity results in aggravated penalties of ten to twenty years. In addition, all laundered funds may be confiscated and forfeited with due consideration for the rights of bona fide third parties.

Predicate offences include all indictable offences in Trinidad and Tobago, as well as offences committed abroad as long as they would constitute indictable offences in Trinidad and Tobago. Therefore, all corruption crimes in the Prevention of Corruption Act, 1987 count as predicate offences. A person can be convicted of both money-laundering and the underlying offence.

Trinidad and Tobago officially furnished copies of its money-laundering legislation to the Secretary-General of the United Nations on 2 September 2013.

Criminal concealment is addressed under Sections 43 to 46 of the POCA, and meets the requirements of UNCAC.

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

Sections 18 and 19 of the Larceny Act, 1919, make it a crime for any public official to steal, embezzle or dispose of any property received or entrusted to the official by virtue of employment, which includes misappropriation. Section 19 refers specifically to public officials who are employed by the national postal service.

Although legislation requires public officials to conduct their work with integrity and impartiality (under Sections 23 and 24 of the Integrity in Public Life Act, 2000), tracking article 19 of UNCAC, there are no provisions that make violations a criminal offence.

When the Prevention of Corruption Amendment Bill of 2001 was presented to Parliament, it included a provision that would have made criminal illicit enrichment, consistent with article 20 of UNCAC. Parliament did not, however, pass that part of the legislation. As an alternative, Trinidad and Tobago relies on Sections 21 to 24 of the Integrity in Public Life Act, 2000, which require public officials to make certain declarations to the Integrity Commission about their assets. Failure to make such a declaration, or providing false responses, can result in a maximum prison term of 10 years and a \$250,000 fine or the value of the undisclosed property.

Section 18 of the Larceny Act, 1919, makes embezzlement of property in the private sector by any employee a criminal offence, and satisfies the requirements of article 22 of UNCAC.

*Obstruction of justice (art. 25)*

Section 7 of the Criminal Offences Act, 1844, makes it a crime for any person to commit an act to “obstruct, prevent, pervert or defeat the course of public justice.” This broad statute is envisioned to apply to the acts set forth in article 25(a) of UNCAC. In addition, Section 10 of the Perjury Act, 1925, makes it a crime for any person to incite or attempt to procure or suborn another person to make a false statement as a witness.

Section 24 of the Summary Courts Act, 1918, sets forth a broad array of criminal offences that would apply to the interference of the conduct of judicial officers, including violence, threats and verbal or written abuse. Obstruction of law enforcement officers is addressed in common law as well as the Summary Offences Act, 1918. In addition, sections 59 and 60 of the Police Service Act, 2006, make it an offence to obstruct or refuse to assist a police officer in the execution of his duty.

*Liability of legal persons (art. 26)*

Section 16 of the Interpretation Act, 1962, specifically extends criminal liability to corporations and unincorporated bodies or entities. In addition, Section 3 of the Criminal Procedure (Corporations) Act, 1961, grants jurisdiction to the court to commit a corporation or unincorporated body to trial, upon application of the prosecutor. Such liability does not prejudice the criminal liability of natural persons who commit the same offence. Punishment includes fines or other monetary penalties, in the discretion of the court.

*Participation and attempt (art. 27)*

Section 2 of the Accessories and Abettors Act, 1925, provides that a person who “aids, abets, counsels or procures” the commission of any offence may be tried and sentenced as a principal offender. Section 65 of the Interpretation Act, 1962, states that with regard to criminal offences, it shall be deemed criminal any attempt to commit that offence, subject to the imposition of the same penalties. Mere preparation to commit a criminal offence does not itself constitute a criminal offence.

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

Under the Prevention of Corruption Act, 1987, punishment is imposed in proportion to the gravity of the offence, including ranges for both imprisonment and fines, and certain aggravating factors may apply, as determined and applied by the court.

Section 38 of the Constitution provides immunity for the President of the Republic with regard to the institution or continuation of civil or criminal proceedings against him during his term of office and for the performance of his functions.

Other than the President of the Republic of Trinidad and Tobago, legislation does not provide immunity from prosecution for any public official. Therefore, a person’s status as a public official does not prevent an investigation for allegations of corruption.

The decision whether to prosecute rests solely with the DPP, as an independent body. Internal guidelines address factors to be considered in exercising that discretion, which extends to charging, dismissal and the decision not to prosecute. Sections 12 to 15 of the Bail Act, 1994, set forth measures and conditions that courts may impose in deciding to grant bail that are designed to ensure public safety and the accused’s appearance at subsequent proceedings.

Although there is no formal policy of early release, the Ministry of Justice is currently developing a policy of parole. Under this initiative, offenders would be able to earn the remittance of their sentences if they have received and applied the personal training and development provided by prison authorities. Good behaviour would be rewarded through a system of early limited release, allowing offenders to engage in productive work on the outside.

Sections 121 to 129 of the Constitution permit the supervisory authorities to suspend, discipline and dismiss public officials for the commission of criminal offences, including corruption. In addition, Section 6 of Prevention of Corruption Act, 1987, requires that anyone convicted of a violation of Sections 3 to 5 (bribery and corruption) shall be “adjudged forever incapable of being elected or appointed as a member of a public body or of holding any other public office.” Beyond prison programmes of training, education and employment assistance, to encourage rehabilitation, civil society organizations also provide counselling and support.

Regarding cooperation with law enforcement, Sections 2, 4 and 12 of the Criminal Procedure (Plea Discussion and Plea Agreement) Act, 1999, set forth the scope and type of agreements that can be reached between the prosecutor and the accused to mitigate punishment, including through cooperation with a criminal investigation. This includes the jurisdiction of the prosecutor to discontinue or refuse to prosecute.

Such cooperating offenders are entitled to the protections of the Justice Protection Programme, described below, as a witness in a criminal proceeding.

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

The Justice Protection Act, 2000, established the Justice Protection Programme to provide protection for witnesses and their family members. Its scope protects witnesses, victims, jurors, judicial officers, legal officers and law enforcement personnel. The offences for which protection is offered include all offences under the Prevention of Corruption Act, 1987, as well as money-laundering and larceny. In addition, Trinidad and Tobago is party to the Regional Justice Protection Programme, established in 1999, consisting of States in the Caribbean Community (CARICOM).

Section 8 of the Criminal Procedure (Plea Discussion and Plea Agreement) Act, 1999, requires prosecutors to discuss any plea agreement with the victim(s) and solicit input. Section 11 authorizes the court, in its discretion, to seek the views of victims before accepting a plea agreement or passing sentence.

With regard to persons reporting corruption, Section 42A of the Integrity in Public Life Act, 2000, prohibits the dismissal, suspension, demotion, discipline, harassment or denial of benefits to a public employee for reporting, in good faith and on the basis of a reasonable belief, an act of corruption.

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

The POCA and the Summary Courts Act, 1918, set forth the legal mechanism that permits the court, upon conviction, to order the confiscation of items acquired as a result of the offence or used in the commission of the offence, and includes the freezing, seizure, confiscation and forfeiture of criminal property or proceeds. This includes all property, equipment or other instrumentalities used in the commission of the offence. Confiscation and forfeiture is conducted without prejudice to the rights of bona fide third parties, which are specifically protected in Section 110 of the Summary Courts Act, 1918. Part 1 (sections 3-42) of the POCA relating to "Confiscation of the proceeds of a specified offence" deals with converted or intermingled property and permits forfeiture up to the value of the criminal proceeds.

Under Sections 21 and 22 of the POCA, the court may appoint a receiver to administer seized property until final disposition, who has a fiduciary duty to preserve its value and interest. Under Section 58, forfeited property and confiscated assets are managed by a Seized Assets Committee established by the Comptroller of Accounts. This Committee is authorized to dispose of the property as appropriate for the benefit of community development, drug abuse demand reduction and rehabilitation projects, and law enforcement.

Sections 8 and 55 of the Financial Institutions Act, 2008, prohibit a bank or other financial institution from refusing to comply with a judicial order or subpoena in criminal proceedings based on professional secrecy.

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

There is no statute of limitations in Trinidad and Tobago for indictable offences. For summary offences, the six-month statute of limitations is extended to one year in

corruption cases under Section 8 of the Prevention of Corruption Act, 1987. The limitations period stops at the time of the filing of the offence, preventing an absconding defendant from defeating the limitations period.

Although Section 8 of the Evidence Act, 1848, permits the sentencing court to inquire into a convicted person's prior criminal convictions, there is no specific reference to criminal convictions in foreign jurisdictions. Nothing precludes a court, however, from inquiring into foreign convictions as part of the sentencing process.

*Jurisdiction (art. 42)*

Section 90 of the Constitution establishes jurisdiction for offences committed in Trinidad and Tobago. Sections 380 to 382 of the Shipping Act, 1987, and Section 54 of the Civil Aviation Act, 2001, extend jurisdiction to vessels and aircraft bearing the flag of Trinidad and Tobago, including foreign vessels and aircraft if within or over the territory of Trinidad and Tobago. However, there is no jurisdiction over crimes committed abroad, even if the victim is a national of Trinidad and Tobago. An exception exists for certain financial crime cases, such as money-laundering, involving multiple States, under Section 2 of the POCA.

In Trinidad and Tobago, there is no jurisdiction for cases against foreign nationals who commit offences in foreign jurisdictions and are thereafter found in Trinidad and Tobago and not extradited.

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

Under applicable principles of common law, acts of corruption can provide grounds for the rescission of contracts, claims for damages and injunctive relief, among other potential actions.

Sections 17 and 19 of the Supreme Court of Judicature Act, 1962, permit a civil plaintiff to bring a lawsuit for a claim of damages based on a wrongful act committed by another person, including acts of corruption. The award of civil damages is without prejudice to the potential imposition of criminal penalties.

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

As detailed above, Trinidad and Tobago has several specialized offices that work in the area of anti-corruption and law enforcement. Coordination among these institutions was reported to be a challenge, including between these institutions and judicial and investigation agencies, to promote the prevention, detection and investigation of corruption.

Sections 8 and 55 of the Financial Institutions Act, 2008, provide a mechanism to encourage financial institutions to cooperate with law enforcement by providing protections for the confidentiality of information except where provided by law or authorized by the court. In addition, there is a public hotline available in the Police Complaints Authority for citizens to report complaints of corruption against the Police Service.



## 2.2. Successes and good practices

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

- Innovative alternative to the criminalization of illicit enrichment, requiring public officials to make asset declarations as an administrative matter with criminal sanctions for failing to cooperate or producing false declarations.
- The establishment of a Regional Justice Protection Programme to provide for the protection of witnesses, experts and victims on a regional basis, facilitating international cooperation.

## 2.3. Challenges in implementation

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

- Amend Section 3 of Prevention of Corruption Act, 1987, regarding bribery of public officials to include “entities” among the beneficiaries of the undue advantage.
- 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 legislation that makes criminal the active and passive trading in influence.
- Consider adopting legislation that makes criminal active and passive bribery in the private sector.
- In the context of Section 24 of the Integrity of Public Life Act, 2000, consider adopting legislation that makes criminal the abuse of functions by public officials.
- Consider adopting remedial measures for public employees who report corruption, and who are retaliated against in contravention of Section 42A of the Integrity in Public Life Act, 2000.
- Consider adopting measures to provide protection against unjustified treatment for persons outside of the public service who report cases of corruption.
- Consider adopting measures to ensure adequate resources, powers and immunities to officers of anti-corruption investigative bodies for activities conducted in the performance of official functions.
- Consider adopting measures to further encourage financial institutions and members of the general public to report corruption.
- Consider the development and implementation of measures or mechanisms to strengthen the effectiveness of institutions engaged in the prevention and investigation of corruption, including through strengthening coordination, information-sharing and cooperation, and clarifying relevant mandates and jurisdictions.

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

- Good practices/lessons learned with regard to articles 15 (Bribery of national public officials), 16 (Bribery of foreign public officials), 17 (Embezzlement), 18 (Trading in influence), 19 (Abuse of functions), 20 (Illicit enrichment), 21 (Bribery in the private sector), 22 (Embezzlement in the private sector), 23 (Money-laundering), 24 (Concealment), 25 (Obstruction of justice), 26 (Liability of legal persons), 27 (Participation and attempt), 29 (Statute of limitations), 30 (Prosecution, adjudication and sanctions), 31 (Freezing, seizure and confiscation), 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons), 34 (Consequences of corruption), 35 (Compensation for damage), 36 (Specialized authorities), 37 (Cooperation with law enforcement), 38 (Cooperation between national authorities), 39 (Cooperation with the private sector) and 42 (Jurisdiction).
- Model legislation with regard to articles 16 (Bribery of foreign public officials), 20 (Illicit enrichment), 23 (Money-laundering), 30 (Prosecution, adjudication and sanctions), 33 (Protection of reporting persons) and 34 (Consequences of corruption).
- Capacity-building assistance to national authorities with regard to articles 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons) and 42 (Jurisdiction).
- Legislative drafting assistance with regard to article 34 (Consequences of corruption).

## 3. Chapter IV: International cooperation

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

#### *Extradition (art. 44)*

Extradition is provided for in the Extradition (Commonwealth and Foreign Territories) Act, 1985. This Act allows for extradition with 51 Commonwealth countries listed in an accompanying order<sup>1</sup> and to the foreign territories with which Trinidad and Tobago has a bilateral treaty — currently only the United States and the Netherlands.

Dual criminality is required for an offence to be extraditable, determined on a conduct-based test, where the offence is punishable by at least 12 months of imprisonment (section 6). All UNCAC offences that have been criminalized in Trinidad and Tobago satisfy the requirements for extradition. Trinidad and Tobago does not recognize UNCAC as a legal basis for extradition and does not proceed to extradition with a country with which there is no applicable treaty. It was reported that there are currently no treaties under negotiation.

The Extradition Act, 1985, provides for provisional arrest on the basis of a request made directly to the Central Authority with evidence of the arrest warrant or conviction, with the formal extradition request to be made in a reasonable time

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<sup>1</sup> Extradition (Commonwealth and Foreign Territories) (Declared Commonwealth Territories) Order, 33/1986.

(sections 10 and 12(3)). However Trinidad and Tobago is not able to proceed to provisional arrest based on an Interpol Red Notice. The Act allows for simplified proceedings with the consent of the person sought (section 11). The admissibility of evidence is facilitated through the relaxation of evidentiary requirements, including through the admission of a record of the case (section 19A).

Trinidad and Tobago does not refuse extradition on the basis that the person sought is a national. However, jurisdiction would not permit domestic criminal proceedings against that person.

While extradition may be refused for political offences, the Act provides that offences under multilateral treaties may not be seen as being of a political character (section 8(7)). The Act does not allow for the refusal of a request on the basis that it involves fiscal matters.

The Constitution provides for the protection of rights and freedoms in all national proceedings. The Extradition Act, 1985, also provides that extradition shall be refused where sought for the purpose of prosecuting or punishing the person on discriminatory grounds (section 8(1)). In practice, the Central Authority regularly consults with requesting States to facilitate cooperation.

*Transfer of sentenced persons; transfer of criminal proceedings (arts. 45 and 47)*

The Transfer of Prisoners Act, 1993, provides for the transfer of persons who have been convicted and sentenced to imprisonment for criminal offences.

There is no provision in the laws of Trinidad and Tobago for the transfer of criminal proceedings, although in practice, prosecution has been declined in the interests of justice to allow for a prosecution in another country.

*Mutual legal assistance (art. 46)*

The Mutual Assistance in Criminal Matters Act, 1997, provides for mutual legal assistance with Commonwealth countries and countries with which it has a bilateral treaty, including through the Inter-American Convention on Mutual Criminal Assistance. At present, Trinidad and Tobago has bilateral treaties with Canada, the United Kingdom and the United States. Trinidad and Tobago does not accept multilateral treaties as a legal basis for mutual legal assistance requests, although the Central Authority confirmed that, in practice, it provides assistance to the degree possible even when no treaty exists.

The Act applies to criminal matters, including restraint, confiscation and forfeiture proceedings, and sets out a broad range of forms of assistance. Section 5 provides that the Act does not derogate from existing or new forms of cooperation, either informal or formal, in criminal matters and would thus allow for the spontaneous transmission of information.

The Central Authority is based in the Ministry of the Attorney General and is responsible for matters relating to mutual legal assistance in criminal matters and extradition.

Requests for assistance may be made directly to the Central Authority who will transmit it for execution by the relevant national authority. Requests may also be transmitted through diplomatic channels. In urgent cases, requests may be submitted

orally or through electronic means, provided that these are followed up with a formal request. Requests may not be transmitted through Interpol. Requirements as to the form and content of requests are set out in the First Schedule to the Act.

Section 16 sets forth restrictions on the use of evidence provided. While Trinidad and Tobago requires requesting States to declare reasons concerning the confidentiality of the request (First Schedule, section 1(d)), the Act does not explicitly require information provided to be kept confidential. This requirement is set out in all three bilateral treaties. While court orders are not usually sealed, it is possible to do so, upon request.

The Act provides that the lack of dual criminality may be a ground for the refusal of assistance, without distinction between cases where coercive measures are requested. In practice, the Central Authority confirmed that assistance is provided to the extent possible.

Reasons for refusal, both mandatory and optional, are set out in sections 22(2) and (3). Assistance is refused where the request relates to a criminal offence under the tax laws of a Commonwealth country unless the offence involves a false statement or failure to declare income from any offences covered by the Inter-American Convention on Mutual Assistance in Criminal Matters. This refusal could relate to matters of a fiscal nature. Reasons for refusal must be provided in writing.

While the Act provides for safe conduct of a person who has provided evidence, this shall cease after a period of 10 days after his or her presence is no longer required, below the minimum period of 15 days in UNCAC.

The Central Authority seeks to respect deadlines requested for assistance, and responds to requests for progress updates. The bilateral treaties contain provisions for speedy execution, postponement and consultations. Ordinary costs of execution are assumed by Trinidad and Tobago, with the possibility of other arrangements for extraordinary costs.

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

The Mutual Assistance in Criminal Matters Act, 1997, does not derogate from existing or new forms of cooperation, either informal or formal, in criminal matters. In practice, law enforcement authorities in Trinidad and Tobago cooperate with authorities in other countries, either through Interpol or informal contacts. Trinidad and Tobago has not entered into any bilateral or multilateral agreements or arrangements with regard to law enforcement cooperation.

Law enforcement authorities have not undertaken any joint investigations and have not considered concluding bilateral or multilateral agreements or arrangements to allow for their establishment.

In general, special investigative techniques are not commonly used. Undercover operations are permissible, usually in drug investigations. There is provision for the controlled delivery of firearms and other related materials under the Firearms Act, 1970. Electronic surveillance is rather new and untested, authorized under the Interception of Communications Act, 2010. There are no agreements or

arrangements in place to allow for the use of these techniques at the international level.

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

Overall, the following points are regarded as successes and good practices in the framework of implementing Chapter IV of the UNCAC:

- The Central Authority accepts requests for mutual legal assistance directly, including through electronic or verbal means.
- The Central Authority will accept requests in languages other than English provided that it is able to translate the request domestically.

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

The following points could serve as a framework to strengthen and consolidate the actions taken by Trinidad and Tobago to combat corruption:

- Consider legislation to allow the Convention to be used as a legal basis for extradition and mutual legal assistance, in the absence of a treaty.
- Inform the Secretary-General of the Central Authority designated for the purpose of mutual legal assistance under the Convention and of the acceptable language(s).
- Amend Section 22(2)(k) of the Mutual Assistance in Criminal Matters Act, 1997, to ensure that a request for mutual legal assistance may not be refused on the sole ground that the offence involves fiscal matters.
- Amend Section 11(2) of the Mutual Assistance in Criminal Matters Act, 1997, to extend the period of safe conduct from 10 to 15 days.
- Consider entering into bilateral, regional or international agreements or arrangements to facilitate direct cooperation between law enforcement agencies, joint investigations and/or the use of special investigative techniques at the international level.

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

- Good practices/lessons learned with regard to articles 44 (Extradition), 47 (Transfer of criminal proceedings), 48 (Law enforcement cooperation) and 50 (Special investigative techniques).
- Capacity-building assistance to national authorities with regard to articles 44 (Extradition), 48 (Law enforcement cooperation) and 50 (Special investigative techniques).
- Model treaties with regard to article 44 (Extradition).
- Model agreements and arrangements with regard to articles 48 (Law enforcement cooperation) and 50 (Special investigative techniques).
- Technological assistance with regard to article 48 (Law enforcement cooperation).