

Annex 1 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]

“Links between corruption and other forms of crime”

States parties are invited to provide relevant information in line with paragraph 22 of resolution 9/1¹, in which the Conference:

*Encourage[d] States parties to further explore and enhance their knowledge of the **links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, including during times of emergencies and crisis response and recovery**, to better strengthen integrity, transparency and accountability, and invite[d] the secretariat, within existing resources, to compile a report in this regard on the voluntary information provided by States parties and submit it to the Conference at its tenth session [emphasis added].*

States parties may wish to take a broad view of “other forms of crime” when responding to this questionnaire, which may include all forms of organized crime and economic crime, as well as other crime, among others.

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: Botswana

Government Agency: Directorate on Corruption an Economic Crime

Department: Directorate on Corruption an Economic Crime

[REDACTED]

¹ In July 2022, the secretariat sent out note verbale CU 2022/264(A)/DTA/CEB/CSS inviting States parties to provide information on good practices and challenges concerning international cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery, in line with paragraphs 22 and 23 of resolution 9/1 entitled “Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery”. As at 11 October 2022, the secretariat had received responses from 23 States parties, which were analysed in a note prepared by the secretariat, entitled “Best practices and challenges concerning international cooperation in combating corruption during times of emergencies and crisis response and recovery, and efforts to further explore and enhance knowledge of the links between corruption and other forms of crime” [CAC/COSP/EG.1/2022/CRP.1]. Responses were received from the following States parties: Australia, Bahrain, Belarus, Brazil, Bulgaria, Chad, Chile, Egypt, El Salvador, European Union, France, Georgia, Italy, Mexico, Myanmar, Panama, Portugal, Republic of Moldova, Romania, Saudi Arabia, Spain, Türkiye and the United States of America.

Questionnaire

Corruption may contribute to impunity for other types of crime by providing the leverage to facilitate and execute them, and to make them invisible, and often exacerbates those crimes through the involvement of powerful elites and individuals. Corrupt behaviour (such as violating duties, accepting or transferring bribes, and facilitating transactions, as well as ignoring or failing to follow-up on information that a crime may be taking place) may serve an enabler of other crimes by allowing for the enrichment of criminals and incentivizing individuals in the public and private sector to facilitate their operation. Other crimes can therefore flourish and in turn provide a basis for a wide range of corrupt behaviour.

This questionnaire is structured into two parts: Part 1 considers steps taken to understand the links between corruption and other forms of crime, while Part 2 focuses on the measures aimed at responding to corruption linked with other forms of crime.

I. Understanding the links between corruption and other forms of crime

1. Has your country undertaken any analyses or assessments to better understand the interlinkages between corruption and other forms of crime, including typologies of crime and how corruption may be used to facilitate and enable organized crime, economic and other crime, and vice versa? **YES**
 - a. If **YES**, was such analysis carried out through formal risk assessments or other methods? Please describe.
 - *A National Risk Assessment was conducted where all organs susceptible to corruption, money laundering and terrorism financing were assessed through questionnaires and interviews.*
2. Please list the main typologies of other crime that have interlinkages with corruption in your country.
 - ✓ Drug trafficking
 - ✓ Money-laundering
 - ✓ Human trafficking
 - ✓ Migrant smuggling
 - ✓ Firearms trafficking
 - ✓ Crimes that affect the environment
 - ✓ Trafficking in cultural property
 - ✓ Cybercrime
 - ✓ Terrorism

Other forms of economic crime, organized crime or other crime with links to corruption (**please list**)

3. Please provide examples of corruption linked to these other crimes.

The Corruption and Economic Crime Act provides as follows:

24. Corruption by or of public officer

(1) A public officer is guilty of corruption in respect of the duties of his or her office if he or she directly or indirectly agrees or offers to permit his or her conduct as a public officer to be influenced by the gift, promise, or prospect of any valuable consideration to be received by him or her, or by any other person, from any person.

(2) A person is guilty of corrupting a public officer if he or she endeavours directly or indirectly to influence the conduct of the public officer in respect of the duties of his or her office by the gift, promise, or prospect of any valuable consideration to be received by the public officer, or by any other person, from any person.

24A. Abuse of public office

(1) A public officer is guilty of corruption if he or she directly or indirectly, uses his or her public office or position in a public body to obtain any valuable consideration whether for the benefit of himself or herself or any other person.

(2) For the purposes of subsection (1), proof that a public officer in a public body has made a decision or taken action in relation to any matter in which the public officer, or any relative or associate of his or hers has an interest, whether directly or indirectly, is, in the absence of evidence to the contrary which raises reasonable doubt, sufficient evidence that the public officer has corruptly used his or her office or position in the public body in order to obtain a gratification.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding P5 000 or to imprisonment for a term not exceeding three years or to both.

25. Corruption in respect of official transaction

(1) A public officer is guilty of corruption if he or she accepts, or agrees or offers to accept, for himself or herself, or for any other person any valuable consideration as an

inducement or reward for doing or forbearing to do anything in respect of any matter in which he or she is concerned in his capacity as a public officer.

(2) A person is guilty of corrupting a public officer if he or she gives or agrees or offers to give any valuable consideration to a public officer, whether for the benefit of that public officer or of another person as an inducement or reward for doing or forbearing to do anything in respect of any matter in which the public officer is concerned in his or her capacity as a public officer.

25A. Trading in influence

(1) A person is guilty of corruption if he or she directly or indirectly promises, offers or gives to a public body or any other person, a valuable consideration, in order that the public body or the person abuses his or her real or supposed influence with a view to obtaining from that person an undue advantage for himself or herself or for any other persons own benefit.

(2) A public officer or any other person shall be guilty of an offence if he or she directly or indirectly solicits or accepts, a valuable consideration for himself or herself or for another person, in order that the public officer or the person abuses his or her real or supposed influence with a view to obtaining from a public body a valuable consideration.

26. Acceptance of bribe by public officer after doing act

If, after a person has done any act as a public officer, he or she accepts, or agrees or offers to accept for himself or herself or for any other person, any valuable consideration on account of such act, he or she shall be presumed, until the contrary is shown, to have been guilty of corruption in respect of that act before the doing thereof.

27. Promise of bribe to public officer after doing act

If, after a public officer has done any act as such officer, any other person agrees or offers to give to or procure for him or her or for any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having, before the doing of such act, corrupted the public officer in respect of such act.

28. Corrupt transactions by or with agents

(1) An agent is guilty of corruption if he or she corruptly accepts, or agrees or offers to accept from any person, for himself or herself or for any other person any valuable consideration as an inducement or reward for doing or forbearing to do, or for having

done or forborne to do, any act in relation to his or her principal's affairs or business, or for showing or for bearing to show favour or disfavour to any person in relation to his or her principal's affairs or business.

(2) A person is guilty of corruption if he or she corruptly gives or agrees to give or offers to give to any agent any valuable consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business.

(3) If any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his or her principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his or her knowledge is intended to mislead the principal, such a person is guilty of corruption.

29. Bribery for giving assistance in regard to contracts

(1) A public officer is guilty of corruption if he or she directly or indirectly accepts or agrees or offers to accept for himself or herself or for any other person any valuable consideration as an inducement or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in, promoting, administering, executing or procuring (including any amendment, suspension or cancellation) of any contract (including a subcontract) with a public body.

(2) A person is guilty of corruption if he or she directly or indirectly gives, or agrees or offers to give any valuable consideration to any public officer as an inducement or reward for or otherwise on account of the public officer giving assistance or using influence in, or having given assistance or used influence in, promoting, administering, executing or procuring any contract (including a subcontract) referred to in subsection (1).

30. Bribery for procuring withdrawal of tender

(1) (1) A person is guilty of corruption if he or she directly or indirectly accepts or agrees or offers to accept for himself or herself or for any other person any valuable consideration as an inducement or reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for any contract with a public

body for the performance of any work, the providing of any service, the doing of anything or the supplying of any article, material or substance.

(2) A person is guilty of corruption if he or she directly or indirectly gives or agrees or offers to give any other person any valuable consideration as an inducement or reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender for such a contract as is referred to in subsection (1).

31. Conflict of interest

(1) A member or employee of a public body is guilty of corruption if-

(a) he or she, the immediate member of his or her family has a direct or indirect interest, in any company or undertaking with which such body proposes to deal; or

(b) he or she has a personal interest in any decision which such body is to make, and he or she, knowingly fails to disclose the nature of such interest, or votes or participates in the proceedings of such body relating to such dealing or decision without disclosing the nature of his or her interest.

(2) It is a defence to a charge under this section if the member or employee of a public body having an interest, has first made, in writing, to his or her appointing authority, the fullest disclosure of the exact nature of his or her interest and has been permitted thereafter to take part in the proceedings relating to such dealing or decision.

(3) For the purposes of this section-

(a) direct interest in a company or undertaking means a member or employee of a public body or the immediate member of the family of the member or employee of a public body-

(i) holds a position in,

(ii) is an employee of,

(iii) is a shareholder in, or

(iv) gives services for remuneration or reward to, a company or undertaking referred to in subsection (1);

(b) "immediate member of the family" means the spouse, son, daughter, sibling or parent of the member or employee of a public body; and

(c) "indirect interest in a company or undertaking" means an employee, agent or nominee of a member or employee of a public body or his or her immediate member of the family has a direct interest in a company or undertaking referred to in subsection

(1).

32. Bribery in relation to auctions

(1) (1) A person is guilty of corruption if he or she directly or indirectly accepts or agrees to accept for himself or herself or any other person any valuable consideration as an inducement or reward for or otherwise on account of his or her refraining or having refrained from bidding at any auction conducted by or on behalf of any public body

(2) A person is guilty of corruption if he or she directly or indirectly gives or agrees or offers to give any other person any valuable consideration as an inducement or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body.

33. Cheating of public revenue

A person is guilty of cheating the public revenue if as a result of his or her fraudulent conduct money is diverted from the revenue and thereby depriving the revenue of money to which it is entitled.

34. Possession of unexplained property

(1) The Director-General or any officer of the Directorate authorised in writing by the Director-General may investigate any person where there are reasonable grounds to suspect that that person-

(a) maintains a standard of living above that which is commensurate with his or her present or past known sources of income or assets; or

(b) is in control or possession of pecuniary resources or property disproportionate to his or her present or past known sources of income or assets.

(2) A person is guilty of corruption if he or she fails to give a satisfactory explanation to the Director-General or the officer conducting the investigation under subsection (1) as to how he or she was able to maintain such a standard of living or how such pecuniary resources or property came under his or her control or possession.

(3) Where a court is satisfied in any proceedings for an offence under subsection (2) that, having regard to the closeness of his or her relationship to the accused and to other relevant circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused, or acquired such resources or property as a gift, or loan without adequate consideration, from the accused, such resources or property shall, until the contrary is proved, be deemed to have been under the control or in the possession of the accused

Please elaborate if you have or had any cases of the following in your country:

A. Corruption as an enabler of crime

- a. Cases of public officials abusing their office to facilitate criminal activity or to protect certain criminal individuals and entities – or to gain support from them – for example, by providing funding or protection or to gain and control public resources?

State vs Carter Morupisi

A judgement against former Permanent Secretary to the President was delivered in the year 2022, Mr. Morupisi was convicted on counts of; abuse of office, corruption by public officer and money laundering. The property that he received as kickback was declared to be proceeds of crime and therefore forfeited to the state. He was sentenced to two (2) years imprisonment, wholly suspended and fined a total of One Hundred and thirty Thousand (P 130 000.00).

- b. Cases of corruption being used to facilitate other types of crime, such as trafficking in persons, illicit trade or smuggling of drugs across borders? For example, have any cases involved the following:
- the issuance of permits, licenses, visas or documents for border crossings
 - the purchasing of firearms
 - bribery of border agents
 - falsification of data in public registries
 - other
- c. Cases of corruption in public procurement to advance the interests of public officials and their associates? Cases of officials giving preferred access to contracts and tenders to their associates in cases involving other crimes?

o ***Tutume Sub District Council***

The allegation related to fraudulent award of tender for the construction of roads, bridges, storm water drains and paved parking areas as part of the Tutume Infrastructure Project amounting to Two Hundred and Seventy-two Million Three Hundred and Seventy-Eight Thousand Three hundred and Ten Pula Ninety-Six Thebe (P272 378 310.96). Investigations were completed in 2022 and the case was forwarded to the Directorate of Public Prosecutions.

o ***Disposal of Clinical Waste***

A report was received alleging that a certain company was corruptly awarded a tender by the Ministry of Health & Wellness. The tender was for the disposal of

clinical waste in all government clinics in Gaborone including Princess Marina Hospital, Kanye SDA Hospital and all clinics in Southern District. Investigations into this matter revealed that the Tender did not stipulate the contract sum and had no budget but the Ministry had already paid Ten million three hundred and Forty-eight thousand one hundred and Fifty-two Pula and Sixty-Eight Thebe (P10, 348, 152.68). Investigations into this case had been completed and the case was registered in Court. The matter is still at court.

○ ***State vs Isaac Seabelo Kgosi***

The accused was arraigned before Judge Gabanagae on 29th March 2023 on a single charge of Corruption by a Public Officer contrary to section 29 (1) as read with section 42 of the Corruption and Economic Crime Act. The particulars of the offence are that:

The accused person, Colonel Isaac Seabelo Kgosi, (retired) then employed in the public service as the Director General of the Directorate of Intelligence and Security (DIS), hence a public officer, on or about 31st July 2009 at or near Gaborone, in the Gaborone Administrative District of the Republic of Botswana, indirectly accepted for himself the sum of BWP 687 281.29 (Six hundred and Eighty Seven Thousand, Two Hundred and Eighty One Pula, Twenty Nine Thebe) from VLATACOM D.O.O. as valuable consideration for having used his influence in recommending that Public Procurement And Asset Disposal Board (PPADB) sanction direct appointment of VLATACOM D.O.O. to provide country wide communication infrastructure, Supply of electronic ID card production system and Supply and installation of AFIS system, to the Directorate of Intelligence and Security, a public body, which contract was something the accused person was concerned in, in his capacity as a public officer.

- d. Cases of the protection of victims of crime and corruption being impeded by corruption involving public officials or persons in the private sector?

B. Corruption and crime linked to political patronage

- a. Criminal individuals and entities attempting to use corruption to obtain access to political leadership or to gain power and influence, such as through:
- political party financing
 - trading in influence
 - other

- b. Cases of crime and corruption being used to attempt to influence or disrupt elections? **NO**
- c. Cases of criminal involvement, including through the use of corruption, to attempt to influence appointments of public officials to build dependency? **NO**

C. Corruption to make organized and other crime invisible

- a. Cases of criminals and their associates using proceeds of crime and corruption for personal enrichment and to conceal the origin of the crimes and for money-laundering? In particular, cases of concealment of ownership being used to facilitate corruption and other forms of crime?

State vs Carter Morupisi

A judgement against Mr. Carter Morupisi was delivered in the year 2022, Mr. Morupisi was convicted on counts of; abuse of office, corruption by public officer and money laundering. The property that he received as kickback was declared to be proceeds of crime and therefore forfeited to the state. He was sentenced to two (2) years imprisonment, wholly suspended and fined a total of One Hundred and thirty Thousand (P 130 000.00)

- b. Cases of corruption being used to impede investigations, prosecutions and adjudications of organized and other crime, such as through bribery or allocation of political and other favors to law enforcement and judicial officers? Are there cases of corruption linked to organized and other crime not being pursued by the authorities ('blind eye')? **NO**
 - c. Cases of individuals and entities using corruption and other crimes to generate the funds needed to buy protection from the police? Cases of corruption in law enforcement authorities used to shield organized crime? **NO**
 - d. Cases of law enforcement being impeded due to a lack of information and data, as well as reporting of crimes related to corruption? **YES**
4. Has your country collected data or statistics to track and/or analyze trends related to the links between corruption and the types of crime outlined in Question 2 above?
YES

- a. Are these data analysed and used systematically, such as in prevention and investigations or prosecutions? **YES**
- b. Please describe any methodologies used for strengthening measurement and terminological clarity, and achieving a deeper understanding of the different contexts (e.g. in times of peace or in emergencies or conflict situations) and sectors (e.g. law enforcement, border crossing, immigration, intelligence and security, procurement), as well as any corruption or organized crime threat assessments that take into account the interlinkages between corruption and other forms of crime.

National risk assessment of 2019

5. Has your country collected data or statistics to track and/or analyse trends concerning international cooperation in this regard? **NO**.
 - a. Please elaborate and share any findings with regard to the good practices and challenges in international cooperation with regard to countering corruption as it relates to other forms of crime N/A
6. Has your country taken any steps at national, regional or local levels to better understand and study the linkages between corruption and other crimes, such as criminological research, training or awareness raising? **YES**
 - a. If **YES**, please elaborate, providing examples.

The following relate to training and awareness raising:

- *The Commonwealth Africa Anti-Corruption Centre (CAACC)*

The Commonwealth Africa Anti-Corruption Centre (CAACC) was launched as a partnership between the Government of Botswana, the Association of Anti-Corruption Agencies and the Commonwealth Secretariat. The CAACC is the first non-profit making, regional institution which focuses on providing services that meet the needs of the 21 anti-corruption agencies and their employees across 18 Commonwealth Africa countries. In addition, the CAACC provides capacity building to officials from anti-corruption agencies from the various Commonwealth Africa countries.
- *The Public Education (PE) Division of DCEC works to educate the public about the negative effects of corruption and economic crime on the economy. They conduct various programs like outreach campaigns, presentations, workshops, and collaborations to engage different groups including youth, public officers, business community, and NGOs. PE's efforts focus on raising awareness through community education to promote a corruption-free society. As public perception of the organization improves, PE intensifies community outreach to enhance understanding of corruption's dangers, societal impact, and prevention methods.*
- *At Regional level, Botswana along with the other Southern African Development Community (SADC) embarked on the development of a Standardized Regional Anti-Corruption Curriculum primarily aimed at improving the training standards of anti-corruption personnel in the SADC*

region across the four operational functions of Anti –Corruption Officers (ACOs); Investigations, Prosecution, Corruption Prevention, and Public Education. The objective of the curriculum is to equip the ACOs with the knowledge, skills and professional qualities appropriate to the anti-corruption sector thus making a better fit between knowledge, skills and competencies obtained by officers and the needs of business in so far as linkages of corruption are concerned. The curriculum is a response to the corruption crisis that is facing the SADC region. It is believed that the curriculum will contribute significantly to the improvement of anti-corruption work and bring about much better quality results in our agencies.

- *In recognition that corruption keeps changing in trends and is largely exacerbated by the borderless and complex nature of the cyberspace, where corruption has now found its way, SADC members agreed on the inherent need for capacity building of Anti-Corruption Officers in the SADC to enable officers to fully tackle issues of corruption capacity. The growth of computer and communication equipment-based information technologies, as well as process optimization and computerization in many aspects of life, have blurred the boundaries and integrated national economies and infrastructures.*
 - *Furthermore, these trends have resulted in the emergence of the integrated global information environment, in which anyone can access any information from anywhere in the world, remotely manage personal and corporate assets and enter into contracts with foreign counterparties without face-to-face contact. Concurrently, the digital/ cyber space has become both a location and a weapon of crime which also perpetrates corruption. It is on this premise that cybercrime was identified as one of the emerging areas that could be piloted to train officers on, hence Botswana was one of the countries selected for the pilot training on cybercrime first responder. Botswana nominated twenty participants from its divisions for training from 14th-18th March 2022 at northern part of country.*
7. Which aspects of corruption as it relates to other forms of crime do you consider require further research, and what are the gaps in knowledge or understanding that, if addressed, could facilitate countering these crimes?
- *Financial and economic crimes*
 - *Organized crimes, fronting,*
 - *Cryptocurrency.*

II. Measures aimed at responding to corruption linked with other forms of crime

8. Has your government adopted or utilized any measures at national, regional or local levels aimed at **preventing** corruption linked with other forms of crime? **YES.**

a. If **YES**, please elaborate. *Measures may include:*

- ✓ safeguards in specific sectors (e.g. law enforcement, border crossing, immigration, intelligence and security, procurement, local officials)
- ✓ development of targeted strategies, policies, action plans at national or sectoral level specifically addressing the links between corruption and other crime
- ✓ establishment of dedicated institutional frameworks
- ✓ specific rules, codes of conduct, or standards of transparency and integrity for public officials who are most exposed to the risk of being involved in crime and corruption
- ✓ systems for the disclosure of assets and private interests
- ✓ control mechanisms, such as internal approval systems to avoid having one-to-one meetings
- ✓ controls on issuances of visas, work permits, firearms licenses
- the use of information and communication technology (ICT) based tools to prevent (or detect) such crimes
- ✓ awareness raising and prevention measures for public officials that are vulnerable to corruption and other forms of crime
- other

Establishment of dedicated institutional frameworks

- *The Botswana Police Service has the power to investigate acts of corruption as proscribed under the Penal Code*
- *The Directorate on Corruption and Economic Crime (DCEC) is responsible for investigating corruption in Botswana, and the Corruption Prevention Division identifies corruption opportunities in government and parastatal institutions by examining policies and procedures*
- *The government of Botswana mainstreamed corruption prevention committees in public bodies across the country. That is through Anti-Corruption Policies across Ministries, Departments and Agencies (MDAs). These policies focus on key areas that are perceived to be critical in preventing and combating corruption*

Systems for the disclosure of assets and private interests

- *The Declaration of Assets and Liabilities Act is an act that makes provision for the declaration of interests, income, assets, and liabilities of certain categories of persons in Botswana. The act is aimed at monitoring the interests of public officials and ensuring that they do not engage in corrupt practices. The Ethics and Integrity Directorate is*

responsible for investigating suspected or alleged non-compliance with the Act. The Directorate also develops guidelines on asset declaration and management. The Declaration of Assets and Liabilities (Amendment) Act, 2020 was enacted by the Parliament of Botswana, and it came into effect on February 19, 2020. The act requires public officials to declare their assets and liabilities, and it provides for penalties for non-compliance.

Awareness raising and prevention measures for public officials that are vulnerable to corruption and other forms of crime

- *-Pursuant to sections 6 (f), (g), and (h) of the 1994 CEC Act, the Corruption Prevention Division (CPD) evaluates protocols, procedures, and policies within public institutions to identify and alleviate potential corruption vulnerabilities. The Directorate can also offer guidance to public body leaders on optimal methodologies to ensure service delivery devoid of corruption. These objectives are accomplished by integrating anti-corruption measures into Ministries through the following means:*
 - *Corruption Audits: This entails scrutinizing the practices and procedures of public entities to pinpoint corruption risks and suggest corrective measures. The Directorate continually oversees the implementation of recommendations derived from corruption audits conducted at various public entities in recent years. Regular progress reports and on-site verification visits are used to monitor their execution.*
 - *Anti-Corruption Units (ACUs): Ministries establish ACUs to oversee day-to-day transactions. The Directorate maintains a focus on enhancing the capabilities of ACUs to oversee transaction monitoring and initial inquiries for all Ministry-related business dealings. Transaction-monitoring initiatives are carried out in Ministries, particularly in areas prone to risks such as procurement, contract management, human resource administration, and licensing. These activities have revealed issues including non-compliance, inadequate adherence to record management practices, gaps in contract administration, and insufficient oversight in high-risk spheres like security service contracts, mining licenses, human resource management, and procurement*
 - *Establishment of Corruption Prevention Committees (CPCs)*

Within Ministries, CPCs are formed with the aim of upholding accountability and promoting effective governance through the application of anti-corruption measures. To enhance the operational efficiency and effectiveness of these committees, the Directorate consistently empowers them through ongoing capacity-building efforts, which have been carried out to date.

Controls on the issuance of visas, firearm licenses and work permits

- *Visas:*

The issuance of visas in Botswana is controlled by the Department of Immigration and Citizenship. Visitors to Botswana must have a valid passport and visa, except for citizens of certain countries who are exempt from visa requirements. The visa application process involves submitting an application form, passport, and supporting documents to the nearest Botswana embassy or consulate/embassy.

- *Work Permits:*

The issuance of work permits in Botswana is controlled by the Department of Labour and Social Security. Non-citizens who wish to work in Botswana must obtain a work permit. The work permit application process involves submitting an application form, passport, and supporting documents to the nearest Botswana embassy or consulate.

- *Firearms Licenses:*

The Arms and Ammunition Act provides for the control of arms and ammunition in Botswana. The Act requires that anyone who wishes to possess a firearm or ammunition must obtain a license. All firearms imported under the authority of an import permit must be licensed immediately. The Central Arms Registry is responsible for the control of civilian-owned arms and ammunition in Botswana. The process for obtaining a firearm and ammunition license involves submitting an application to the Central Arms Registry. Non-residents who wish to temporarily import firearms and ammunition into Botswana must obtain a temporary permit.

9. Has your government adopted or utilized any measures aimed at **detecting, investigating and prosecuting** corruption linked with other forms of crime? YES/NO.

a. If **YES**, please elaborate. *Measures may include:*

✓ legislation criminalizing all forms of corruption related to other types of crime

- ✓ legislation providing for the liability of legal persons for their role in corruption linked to other forms of crime
- ✓ measures to identify beneficial owners of legal persons
- ✓ specialized investigative techniques
- ✓ strengthened institutional frameworks, including the establishment of dedicated bodies (such as those mandated to identify links between corruption and other crime), task forces or coordination mechanisms between authorities responsible for corruption and other crime
- ✓ capacity-building, including targeted training and peer-learning for relevant authorities
- ✓ measures to enable the identification, confiscation, tracing or seizure (and, where relevant, return) of assets that are proceeds of corruption-related crimes
- ✓ mechanisms to address the role of professional gatekeepers (*i.e.* financial, legal, accounting or other relevant professionals) in the transfer of proceeds of corruption and other crime
- ✓ measures aimed at encouraging the protection or participation of actors outside the public sector, including:
 - ✓ reporting mechanisms, legal protections and incentives aimed at encouraging persons to report corruption and other crimes
 - ✓ measures to protect victims, witnesses, and cooperating offenders
 - ✓ measures aimed at ensuring the investigation and prosecution of acts of violence committed against journalists and civil society actors whose professional activity relates to corruption linked with other crimes
- other

- *The government of Botswana has adopted and utilized measures aimed at detecting, investigating, and prosecuting corruption linked with other forms of crime. Some of these measures include:*

Legislation criminalizing all forms of corruption related to other types of crime

-The Corruption and Economic Crime Act

Establishment of the Directorate on Corruption and Economic Crime: The act establishes the Directorate on Corruption and Economic Crime, which is responsible for investigating corruption and economic crimes in Botswana.

Criminalization of Bribery: The act criminalizes bribery, which is defined as the giving or receiving of any gratification as an inducement or reward for doing or not doing something.

Cheating of Public Revenue: The act criminalizes cheating of the public revenue, which is defined as the fraudulent appropriation of property by a person to whom it has been entrusted.

Criminalization of Abuse of Office: The act criminalizes abuse of office, which is defined as the use of an official position to obtain an advantage or benefit for oneself or another person.

Whistle-blower Protection: The act provides protection for whistle-blowers who report corruption or economic crime

Enforcement of Penalties and Sanctions: The act provides for the enforcement of penalties and sanctions against individuals found guilty of corruption and economic crimes.

Section 51 of the Constitution mandates prosecutorial powers on the Director of Public Prosecutions.

Measures to identify beneficial owners of legal persons

The Financial Intelligence (Amendment) Act of 2018 (No.7 of 2018) defines a "beneficial owner" as a natural person who, either directly or indirectly through various means, is the ultimate beneficiary of shares or securities in a company. However, this definition has undergone changes in subsequent acts. The Financial Intelligence Act of 2019 (No.11 of 2019) further elaborates on the term. It encompasses ownership and control in incorporated bodies, trust arrangements, life insurance proceeds, and transactions conducted on behalf of someone else.

This new act obliges specified parties or accountable institutions to continually conduct Customer Due Diligence (CDD) on existing business relationships, including periodic account reviews for updated customer and beneficial owner information. These measures are mandatory when establishing business relationships, conducting transactions, suspecting money laundering/terrorist financing, or questioning the accuracy of previously acquired customer identification data.

The Financial Intelligence Act empowers supervisory authorities to oversee compliance through examinations, including assessing adherence to beneficial ownership requirements. While the act mandates reporting entities to verify beneficial ownership, there are observed deficiencies in the definition.

In the Companies (Amendment) Act of 2018 (No.22 of 2018), "beneficial owner" is defined as a natural person who ultimately benefits from shares or securities in a

company. This aligns with the FATF definition. Under the Companies Act, company registration requires stating beneficial owners' full names and residential addresses. The Company Re-registration Act mandates existing companies to disclose beneficial ownership details to the Registrar, as does any external company entering Botswana.

It's legally required to provide beneficial ownership information to the Companies and Intellectual Property Authority (CIPA) under Section 21 and 345 of the Companies (Amendment) Act 2018 and in compliance with the Financial Intelligence Agency Act. All registered companies must re-register and provide this information to CIPA. Failure to disclose can result in penalties like up to 5 years' imprisonment or a fine not exceeding P200,000.00.

Information collected includes names, addresses, share allocations, nominee shareholder details, and contact information. This data is gathered through the Online Business Registration System (OBRS) and is shared as required by authorized entities. Efforts are ongoing to link the OBRS system with these entities.

Strengthened institutional frameworks, including the establishment of dedicated bodies (such as those mandated to identify links between corruption and other crime), task forces or coordination mechanisms between authorities responsible for corruption and other crime

- *The Botswana Police Service has the power to investigate acts of corruption as proscribed under the Penal Code.*
- *The Directorate on Corruption and Economic Crime (DCEC) is responsible for investigating corruption in Botswana, and the Corruption Prevention Division identifies corruption opportunities in government and parastatal institutions by examining policies and procedures. The DCEC investigates allegations of corruption and economic crime together with issues of suspicious transactions.*
- *The Directorate of Intelligence & Security Services through implementation of the Intelligence and Security Services Act 2007*

Reporting mechanisms, legal protections and incentives aimed at encouraging persons to report corruption and other crimes

- *Sections 45 and 45A of the Corruption and Economic Act pertain to the protection of informers who report offenses under Part IV of a certain act. It outlines the following key points:*
 - *Witnesses in trials related to offenses under Part IV are not required to reveal informer's identity or information that could lead to their identification.*
 - *If evidence or documents in legal proceedings mention an informer's identity, the court must hide or erase such details to shield the informer from discovery.*
 - *If a court determines that an informer deliberately made false statements, or if justice requires revealing an informer's identity, the court can allow inquiry and disclosure about the informer.*
 - *The act criminalizes threats or intimidation against individuals reporting corruption under the act. The offender could face a fine up to P10,000, imprisonment up to five years, or both upon conviction.*

- *The Whistleblowing Act was enacted in Botswana in 2016 to provide a framework for the disclosure of conduct adverse to the public interest. The act allows individuals to pass on information anonymously without the fear of retaliation. The act also provides for the protection of whistleblowers from victimization. The act applies to both the public and private sectors and covers a wide range of conduct, including corruption, fraud, and other criminal offenses.*

- *The Ethics and Integrity Directorate is responsible for investigating suspected or alleged non-compliance with the Declaration of Assets and Liabilities Act*

Measures to enable the identification, confiscation, tracing or seizure (and, where relevant, return) of assets that are proceeds of corruption-related crimes

- *The Proceeds and Instruments of Crime Act in Botswana helps combat money laundering in the following ways: The act introduces a system for identifying and forfeiting assets that are suspected to be connected to criminal activities. This helps to prevent criminals from laundering money by confiscating their assets and preventing them from using them to further their illegal activities. The act provides a legal framework for the confiscation and forfeiture of property obtained through criminal means. This helps to prevent criminals from using their ill-gotten gains to*

launder money and hide their criminal activities. The act deprives persons convicted of certain crimes of the benefits or rewards gained from those crimes. This helps to prevent criminals from profiting from their illegal activities and using the proceeds to launder money. The act aligns with international standards and best practices in combating money laundering and other forms of financial crime. This helps to ensure that Botswana is taking effective measures to prevent money laundering and is cooperating with other countries in the fight against financial crime.

10. Has your government adopted or utilized any measures aimed at facilitating **international cooperation** and the rapid exchange of information for cases that have interlinkages between corruption and other forms of crime? **YES**

a. If **YES**, please elaborate. *Measures may include:*

- the implementation of mutual legal assistance through digital means
- measures aimed at enhancing the efficiency of extradition mechanisms
- the use of electronic communication channels or networks
- the use of joint or parallel investigations or the bilateral sharing of capacity and expertise on investigating and prosecuting corruption offences linked with other forms of crime
- cooperation with other countries or multilateral, international or regional bodies to address corruption linked with other forms of crime
- accession to bilateral, regional or multilateral treaties and agreements.
- other

The use of joint or parallel investigations or the bilateral sharing of capacity and expertise on investigating and prosecuting corruption offences linked with other forms of crime

- *The Financial Intelligence Agency (FIA) is mandated to cooperate and exchange information with other law enforcement authorities, supervisory authorities and other financial intelligence units or comparable bodies.*

Furthermore, the Financial Intelligence Act designates the Financial Intelligence Agency as the only body that can seek Egmont membership for purposes of exchange of financial intelligence information

- *Section 44A of the Corruption Economic Crime Act provides that the Directorate on Corruption and Economic Crime to disclose and share information with a comparable body in a foreign country for purposes of assisting it in exercising functions corresponding to those of the Directorate under the Act.*

- *In 2019, a collective Memorandum of Understanding (MOU) was established by various law enforcement agencies with the objective of strengthening their collaborative working relationships. The MOU Concerning Cooperation and in Law Enforcement and Exchange of Information was entered into by and between in 2019 by the following agencies:*

- *Botswana Police Service*
- *Financial Intelligence Agency*
- *Directorate of Intelligence and Security Services*
- *Directorate on Corruption and Economic Crime*
- *Botswana Unified Revenue Services*

Accession to bilateral, regional or multilateral treaties and agreements.

- *Botswana has signed and ratified the following:*

- *Commonwealth Scheme on Mutual Legal Assistance in Criminal Matters (Harare Scheme).*
- *Rome Statute -ICC*
- *UN Convention against Transnational Organized Crime*
- *UN Convention Against Corruption*
- *UN Convention against Illicit Traffic in Narcotic*
- *Drugs and Psychotropic Substances*
- *SADC Protocol on Mutual Legal Assistance in Criminal Matters*
- *SADC Protocol on Extradition*
- *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons*

Cooperation with other countries or multilateral, international or regional bodies to address corruption linked with other forms of crime

- *Botswana has entered in to Joint Permanent Commissions of Cooperation with the following countries*
 - *China*
 - *Zimbabwe*
 - *Namibia*
 - *Kenya*

- *Qatar*
- *Zambia*
- *South Africa*