

Annex 2 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]

“Progress made and challenges encountered in implementing resolution 9/1”

States parties are invited to provide relevant information in line with paragraph 25 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, in which the Conference:

*[Requested] the secretariat to submit to the Conference of the States Parties at its tenth session a report on **progress made and challenges encountered in implementing [resolution 9/1]**¹.*

A. Contact Information

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

Country: Republic of Mauritius

Government Agency: Independent Commission Against Corruption (ICAC)

Department: Corruption Prevention and Education Division

[Redacted]

[Redacted]

[Redacted]

[Redacted]

B. Questions

1. Progress made

Please describe the measures or steps your country has taken (or is planning to take, together with the related appropriate time frame) to implement operative paragraphs 1 to 21 of resolution 9/1. *Please state the relevant operative paragraphs in your answer.*

Introduction

During the years 2020 and 2021, the world faced an unprecedented pandemic. Mauritius responded through the implementation of numerous measures for the smooth functioning of the country despite prevailing sanitary restrictions in place since March 2020. In this context, Mauritius re-enforced the existing framework with additional measures in line with operative paragraphs 1-21 of Resolution 9/1.

For the purposes of this questionnaire, the focus is on the actions and initiatives taken at the level of the Independent Commission Against Corruption (ICAC), with regard to its fight against corruption and money laundering, National Audit Office (NAO), Procurement Policy Office (PPO),

¹ Please note that the secretariat has collected information on the implementation of paragraphs 22 and 23 of resolution 9/1 separately.

which is the policy-making and regulatory body pertaining to public procurement, Ministry of Finance, Economic Planning and Development and Ministry of Financial Services and Good Governance, amongst others.

Article 1 of the Resolution:

Encourages States parties to further the full and effective use of the United Nations Convention against Corruption to develop, put in place and, where appropriate, improve and strengthen anti-corruption policies and strategies, in accordance with domestic law, to ensure emergency preparedness and address corruption during times of emergencies and crisis response and recovery;

Following the outbreak of the pandemic, the ICAC issued a Communiqué on 08 May 2020, titled ‘The Corona Virus and Corruption Risks’, hereinafter referred to as the Communiqué 08.05.2020, to warn the public of, among others, the risks/dangers of corruption in procurement. that may arise in times of such crisis. In its Communiqué, the ICAC made the following appeal to public officials *“In the face of enhanced opportunities for malpractices and corruption due to the fact that controls and normal levels of supervision may weaken while discretionary power of public officials increases, the ICAC makes an appeal to all public officials to resist any temptation, report any instance where there is an attempt to corrupt them and uphold the highest level of integrity.”*

Since 2020 to date, the PPO drove the following initiatives:

- Section 21(1) of the Public Procurement Act (PPA) 2006 has been repealed and replaced by *‘A public body may, in cases of extreme urgency, purchase goods and procure works, consultancy services and other services by such procurement method as may be prescribed.’*
- Section 51 of the PPA 2006 relating to the conduct of public officials was also amended to allow the sharing of information relating to procurement proceedings to an investigatory body with powers of investigation, including ICAC, Competition Commission and Mauritius Police Force.
- Regulation 5C and Directive 60 have been issued whereby the law urges institutions to maintain appropriate records of procurement and publish notice of award. It also reiterates the responsibility of public officers to report any emergency procurement exercise to the PPO office for scrutiny.
- Directive 60 provides a framework for chief executive officers to operate in transparency. It ensures that public officers use emergency procurement efficiently and effectively.
- Directive 44 was set up to cater for emergency procurement during the Covid-19 pandemic with the objective to “safeguard life, quality of life or environment”.

Article 2 of the Resolution:

Also encourages States parties to continuously monitor and review the anti-corruption measures implemented during the ongoing coronavirus disease (COVID-19) pandemic and other times of

emergencies and crisis response and recovery and to monitor the impact of the COVID-19 pandemic on corruption-related trends, keeping in mind that corruption risks may have increased during the pandemic;

The Government of Mauritius initiated the assessment of the Public Procurement System in 2021 using the Methodology for Assessing Procurement Systems (MAPS). Special emphasis was laid on the analysis of the e-procurement system and sustainable procurement through use of life cycle costing principles in procurement, effectiveness of emergency procurement procedures in the context of the Covid-19 pandemic and improvements to be made on these aspects in regard to international best practices.

The MAPS Assessment covered central government, local government and parastatal organizations and is based on four pillars namely:

- Existing legal and policy framework regulating procurement in the country;
- The institutional framework and management capacity;
- The operation of the system and competitiveness of the national market; and
- The accountability, integrity and transparency of the procurement system.

The MAPS Assessment Report was released in 2022.

Other initiatives include:

- Conduct of Corruption Prevention Reviews with emphasis laid on procurement which includes a Corruption Prevention Review on the use of e-procurement system in the public sector.
- Public bodies were requested to conduct at least one Corruption Risk Assessment exercise on procurement in view to detect, mitigate monitor corruption risks and malpractices in their procurement systems in line with the implementation of the Public Sector Anti-Corruption Framework (PSACF) which was developed by the ICAC in 2009.
- Conduct of a one-day Conference on “*Corruption Prevention in Public Procurement in the Post-Covid Era*” in December 2022.
- Development and issue of best practice guides pertaining to (i) direct procurement, (ii) contract works and (iii) discretionary powers. In respect to the latter guide, a Circular Letter was issued in May 2021 by the Secretary for Public Service where Supervising Officers were requested to take appropriate actions at their level to implement the best practice guide.
- Conduct of a half-day workshop on enhancing integrity in public procurement in December 2020 in the context of the International Anti-Corruption Day 2020. Public Officers involved in procurement at the level of various Ministries participated in the workshop.

Article 3 of the Resolution:

Further encourages States parties, in accordance with the fundamental principles of their legal system, to afford anti-corruption bodies, supreme audit institutions and other relevant entities the appropriate mandates and the necessary independence and resources to carry out their functions effectively and free from undue influence, including, where relevant, in coordinating anti-corruption efforts, during times of emergencies and crisis response and recovery, and to strengthen political will in this regard;

Independent Commission Against Corruption

On the onset of the Covid-19 pandemic, the ICAC informed the public that it was operational. The public was advised to contact the ICAC through electronic means for any queries or reporting of complaints, given sanitary restrictions.

It is worth pointing out that there were no disruptions since the ICAC had already digitalised its processes through the implementation of the Enterprise Resource Planning, Case Management System and the Electronic Document Management system which facilitated continuity of its operations during the pandemic. The ICAC further pursued the transformation by streamlining existing processes for greater efficiency, improving working online and ensuring that information is properly secured.

A new approach regarding ICAC's operations and administration, including education, prevention, and investigations, was adopted.

During the pandemic period:

- the Investigation Division of the ICAC focused on a sectoral approach wherein public procurement was listed as a priority risk area; and
- the Corruption Prevention and Education Division revised how it communicated with stakeholders. So as to sustain awareness and contact with the population at large, the public was alerted through communiqués on the emerging risks and the coping mechanisms and appropriate guidance offered. Emphasis was also laid on the production of anti-corruption materials and tools and the development of E-learning courses.

National Audit Office

During the financial year 2021-22, the NAO has carried out a Special Review on the Emergency Procurement of the Covid-19 related drugs by the Ministry of Health and Wellness.

The NAO publishes its mandate and posts its annual audit reports on its website, which include a summary of audit observations highlighting weaknesses and lapses in processes, and systems which may lead to malpractices and fraudulent activities, thus contributing to preventing and counter corruption.

Article 4 of the Resolution:

Calls upon States parties to prevent opportunities for public officials to use their status, influence or insider knowledge to profit from procurement processes or the design, allocation, distribution or management of crisis response and recovery measures by requiring public officials to disclose potential conflicts of interest and ensuring appropriate review, management and sanction mechanisms, in accordance with domestic law;

There are specific provisions in the Prevention of Corruption Act 2002 (POCA 2002) and Public Procurement Act 2006 (PPA 2006) relating to conflict of interest.

- Public officials and other persons participating in the deliberations of the Procurement Committee are duty-bound to comply with the provisions of the POCA 2002 and the PPA 2006 and the relevant extracts are referred to hereunder:

- **Extract from POCA 2002 (Section 13)**

1. (a)'' ... a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of his has a direct or indirect interest, and

(b) that public official and/or his relative or associate hold more than 10 per cent of the total issued share capital or the total equity participation in such company, partnership or other undertaking, that public official shall forthwith disclose, in writing, to that public body the nature of such interest.

2. Where a public official or a relative or associate of his has a personal interest in a decision which a public body is to take, that public official shall not vote or take part in any proceedings of that public body relating to such decision...''

- **Extract from PPA 2006 (Section 51 (1)(c) and (2))**

51 (1) (c) "...A public official involved in planning or conducting public procurement proceedings or contract administration shall avoid conflicts of interest, and the appearance of conflicts of interest, in carrying out his duties and conducting himself.

51 (2) No public official, or his close relative, shall participate as a bidder in procurement proceedings of that public body and no award of a procurement contract shall be made directly to such official or to anybody in which he or his close relative, is employed in a management capacity or has a substantial financial interest.

In the subsection, "close relative" includes spouse, child, grandchild or parent.

Any person in a situation of conflict of interest shall disclose his interest that shall be recorded in the minutes of the meeting at which it is made.

No procurement official shall communicate to any unauthorised person any matter relating to the performance of his functions...''

- As mentioned above, through the issue of a Communiqué on 08 May 2020, the ICAC made an appeal to public officials to resist any temptation, report any instance where there is an attempt to corrupt them and uphold the highest level of integrity.

Article 5 of the Resolution:

Urges States parties to establish and, where necessary and appropriate, further strengthen, through the whole public procurement cycle, transparent, competitive and objective public procurement systems conducted by electronic means, if feasible within their means and in accordance with their domestic law, and to develop and improve guidelines for the use and governing of emergency procurement procedures that integrate anti-corruption safeguards to help ensure transparency, oversight and accountability during times of emergencies and crisis response and recovery, including by supreme audit institutions and other oversight bodies;

Relevant legislations as well as regulations and guidelines applicable during times of emergencies and crisis response are in place. The PPO also provided public bodies with an Electronic Procurement System to enable them to conduct public procurement online.

The MAPS Assessment, (please see answer under article 2 above) is based on four pillars namely:

- Existing legal and policy framework regulating procurement in the country;
- The institutional framework and management capacity;
- The operation of the system and competitiveness of the national market; and
- The accountability, integrity and transparency of the procurement system.

Article 6 of the Resolution:

Also urges States parties to have in place sufficient internal audit systems and, where necessary, to strengthen them to help monitor the allocation and distribution of emergency relief and ensure the implementation of measures to prevent corruption during times of emergencies and crisis response and recovery, in accordance with their domestic legal frameworks;

The Internal Control cadre which is under the aegis of the Ministry of Finance, Economic Planning and Development is mainly responsible for conducting internal audit functions in Ministries and Departments. The Internal Control Officers focused more on their internal audits on procurement in public bodies including procurement in the Ministry of Health and Wellness. In addition, the Office of the Public Sector Governance which is under the aegis of the Ministry of Financial Services and Good Governance has, among others been entrusted with the responsibility to establish, review and monitor the effectiveness of Audit Committees in Ministries and Departments.

The ICAC also conducted a workshop for Internal Auditors/Controllers of Local Authorities. Internal auditors/controllers have a leading role regarding the enhancement of internal controls in their organisation with a view to detect and prevent corruption/malpractices and abuses.

Over the recent years, several reforms have been undertaken by the Government to improve the Public Financial Management system, including various amendments to existing legislations. The main public financial management reforms are listed below:

Performance-based budgeting

- To further strengthen accountability and transparency in the management of public funds, as from financial year 2020/2021 the Budget Estimates Document includes Strategic Overviews of Ministries. Previously, non-financial information was included in a 3-year strategic plan document.
- Strategic overviews provide strategic directions for public service delivery over the next three fiscal years with the funds appropriated by the National Assembly.
- The rationale behind the change in the budget presentation is in line with the Government's objective to consolidate public finances and focus on results and improvement in service delivery.
- The budgetary focus is thus shifting from an input-based annual activity to a performance-based exercise that improves the efficiency and effectiveness of resources and lays the foundation for the modernisation of public financial management.

Modernization of Public Sector Accounting Framework

- Since 2016, as part of the reform for modernizing the public financial management system, the Government has embarked on the implementation of an accrual accounting framework consistent with internationally accepted standards.
- The International Monetary Fund has already fielded 6 missions in October 2016, March 2018, March 2019, March 2020, a remote mission in October 2020 and a remote mission in January 2022 to advise the Government on how to improve public sector financial management and on the implementation of accrual International Public Sector Accounting Standards in the public sector.
- Significant progress has been made since the start of the reform, be it in relation to first time recognition of various assets and liabilities, enhancements to existing items or improvements regarding disclosure requirements.

Accountability and transparency

(i) Public Financial Management Kit

- A Public Financial Management (PFM) Kit is being prepared to consolidate all public financial management legislations, rules, procedures and Financial Instructions.
- So far, more than 25 Financial Instructions have been issued.

(ii) Annual Report on Performance

- In March 2015, the Finance and Audit Act was amended to provide for every Ministry/Department to prepare an Annual Report on Performance. A guideline was issued to assist Ministries/Departments in the preparation of their annual Reports on Performance.
- In 2018, the Finance and Audit Act was amended to make it mandatory for Ministries/Departments to report on measures taken to address weaknesses identified by the Director of Audit, including wastage of public funds, as well as to include a ‘gender’ statement.

Governance Structure

(i) Strengthening Internal Auditing

The system of internal auditing has been reviewed and re-organised to provide reasonable assurance regarding:

- the effectiveness and efficiency of operations in the Department;
- safeguard of assets and data of the Department;
- reliability of financial and non-financial reporting;
- prevention of fraud and irregularities; and
- compliance with applicable laws, regulations and instructions as well as policies and established procedures.

(ii) Risk Management Framework

- A Risk Management Framework has been developed to support Ministries/Departments to improve and sustain their performance by enhancing their systems of risk management to protect against adverse outcomes and optimise opportunities through the maintenance of the Risk Register by Ministries/Departments.

Scrutiny of Public Finance

- Currently, Accounting Officers are responsible to put in place a sound system of internal control. The Accountant General’s Office effects a final layer of due diligence before effecting payment to suppliers which is processed in a computerised system called the Treasury Accounting System.

Supplementary budgetary provisions

- The Ministry of Finance, Economic Planning and Development provides financial clearance for emergencies/projects and presents a Supplementary Appropriation Bill for any additional funds allocated to Ministries and Departments.

Internal Audit

- Internal auditors are responsible for continuously evaluate and test the effectiveness of the internal control system and provide independent assurance in relation to the management's assertion surrounding the robustness and effectiveness of risk management including compliance.

External Audit

- Section 20 of the Finance and Audit Act requires the Director of Audit to send to the Minister of Finance, within 8 months of the close of every fiscal year, a certificate of audit on the statements submitted by the Accountant General and a report upon examination and audit of all accounts including Rodrigues Regional Assembly (RRA).
- The Director of Audit is also required to carry out performance audit and report on the extent to which a Department is applying its resources and carry out its operations economically, efficiently and effectively.

Audit Committee

- The Audit Committee - an integral element of public accountability and governance and plays a key role in assisting Ministries/Departments in their legal and fiduciary responsibilities, especially with respect to the integrity of the Government's financial information and the adequacy and effectiveness of the internal control system.
- The main object of the Audit Committee is to support the Supervising Officer in maintaining sound control systems and in promoting good governance.

Public Accounts Committee

- The Public Accounts Committee is a Committee of the National Assembly which examines the audited accounts showing the appropriation of the sums granted by the Assembly to meet the public expenditure and such other accounts laid before this Assembly as the Assembly may refer to the Committee together with the Director of Audit's report thereon.
- The Accounting Officer is answerable to the Public Accounts Committee for the formal regularity and propriety of the expenditure and the delivery of outputs for which the Accounting Officer is responsible.

Legal Advice on Financial Matters

- The State Law Office issues legal advice on financial agreements to be concluded by Ministries and Departments.

Public Financial Management Reforms

- Mauritius has undertaken a series of reforms over the last decade to modernize its Public Financial Management system and benchmark with international best practices. The main reforms are as follows:
 - Adoption of Performance Based Budgeting;
 - Submission of Annual Reports by Ministries/Departments;
 - Modernisation of Accounting and Reporting Framework – implementation of accrual International Public Sector Accounting Standards in the Public Sector;
 - Development of integrated management information systems for different public financial management processes;
 - Improve our investment management system- Development of a new Capital Project Process Manual;
 - Establishment of Risk Management Framework;
 - Development of a comprehensive asset register and electronic Inventory Management System;
 - Comprehensive review and update of financial management procedures and manual currently underway;
 - Further strengthen the accountability and Transparency of state-owned enterprises
- The Quarantine Act 2020 (Act No. 2 of 2020) and National Disaster Risk Reduction and Management Act 2016 (No. 2 of 2016) cater for any emergency in Mauritius.

Special Funds for Emergencies

The Government of Mauritius has set up several funds for specific purposes including for emergency situations; for example:

- Contingency Fund for unforeseen emergency expenses and donations to other countries hit by natural disasters. This fund is part of the annual budget of Government.
- Prime Ministers Relief Fund for Victims of Accidents and Injuries Fund. This fund is regulated under the Finance and Audit Act.
- Covid-19 Solidarity Fund (under the Finance and Audit Act) to contribute to the financing of projects, programmes and schemes related to the Covid-19 virus and other related public health issues. This fund has a legal and governance framework, operating guidelines and monitoring and evaluation framework. This fund has ceased active fundraising.

Article 7 of the Resolution:

Encourages States parties to have in place transparency and accountability measures in managing public finances during times of emergencies and crisis response and recovery and, where necessary, to enhance them, including by presenting budget items to ensure that budgets and accounts are available for public access, using flexible and effective financial distribution

policies to manage funds allocated for relief and enabling supreme audit institutions and other relevant entities to perform their functions in this regard, especially by upholding policies and procedures for the management of public finances, in accordance with the fundamental principles of domestic law, with a view to easing the burden on, and improving the conditions of, people in vulnerable situations;

Please refer to the answer above in Article 6.

Article 9 of the Resolution:

Urges States parties to incorporate and implement corruption risk management processes, in particular in institutions responsible for or concerned with crisis response and recovery, to help identify and mitigate potential corruption risks when designing, administering and managing the whole cycle of public procurement and relief measures, in accordance with the fundamental principles of their legal systems;

Corruption risk management processes were already in place and applicable during times of crisis and non-crisis period with regards to functioning of institutions responsible for or concerned with crisis response and recovery. Such institutions are the Police, ICAC and other LEAs as well as Ministries, which are considered as frontliners. The following initiatives providing for a sustainable and resilience system are applicable: -

The Public Sector Anti-Corruption Framework

Mauritius encourages the adoption of anti-corruption policies at the level of individual public bodies through the PSACF which was developed by the ICAC in 2009 and has gained the support of the Ministry of Public Service, Administrative and Institutional Reforms (MPSAIR) as well as other public bodies. The PSACF calls on all public bodies to develop and implement effective anti-corruption policies, corruption prevention plans, corruption risk management systems and corruption prevention strategies and it proposes a risk-based approach.

Over the years, the PSACF gained momentum. Consultations with the MPSAIR were held towards the setting up of a formal reporting and monitoring mechanism for the evaluation of the implementation of the PSACF. Following the training for Integrity Officers and Chairpersons of Anti-Corruption Committee's organised by ICAC in collaboration with the MPSAIR in October 2019 and discussions undertaken with the Public Sector Transformation Bureau of the MPSAIR, a Cabinet Decision was taken on 03 July 2020, for Ministries/Departments to conduct at least two corruption risks assessments per year. Key Performance Indicators (KPIs) were set with regard to the conduct of two corruption risk assessments.

These indicators are closely monitored by the ICAC and Public Sector Business Transformation Bureau. The KPI for the financial year 2021-2022 and 2022-2023 were the implementation by Ministries/Departments of at least 75% of the implementation of the recommendations contained in the Corruption Risk Assessment (CRA) reports and conduct of two CRAs by Parastatal and State-Owned enterprises.

As the public health sector was highly prone to corruption during the pandemic, the Ministry of Health and Wellness revamped its Anti-Corruption Committee and developed its Anti-Corruption Policy which was disseminated to all staff in July 2020. Additionally, two CRAs have been conducted including one on procurement functions. In January 2021, the Ministry also decided to set up an Anti-Corruption Committee at the level of each Regional Hospital.

Corruption Prevention Reviews and other Anti-Corruption Tools

Corruption Prevention Reviews on procurement have also been conducted in public bodies and majority of recommendations contained in Corruption Prevention Reviews addressed the whole procurement system while a few focused on specific procurement methods. Moreover, other anti-corruption tools which are a strong means of empowering employees and consolidating the fight against corruption have been developed to address and manage corruption risks proactively in the procurement area.

E-Procurement System

In line with article 9 of the UNCAC, E-procurement using integrated security features is being implemented to establish more transparency, competition and objective decision-making. As a corruption prevention measure, E-procurement is being emphasised to reduce direct contact between public officials and potential suppliers, interactions being one of the main sources of corruption behaviour in public procurement. It includes the electronic publication of tender opportunities, online availability of bidding documents and the electronic submission of bids. It also allows for easy data generation and data management in order to detect overpricing or bid rigging. The e-procurement system has been operational since 28 September 2015 and the use of the system has been mandatory for all public bodies since 1 January 2021.

Article 10 of the Resolution:

Calls upon States parties, where appropriate, to adopt or strengthen the anti-corruption measures necessary for private sector compliance with applicable laws and regulations, including with due regard for data protection and privacy rights, and to continue efforts to promote the development of codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest;

- The ICAC had set up the Public Private Platform Against Corruption (PPPAC) to ensure collective actions against corruption by the public and private sectors and render the business environment corruption free by identifying corruption risks and making recommendations for their elimination. During the relevant period, the PPPAC considered the outcomes of the high-level conference on ‘*Enhancing Business Integrity in Mauritius*’ held in February 2020. The PPPAC also came up with a report on ICT and Emerging Corruption Risks in private and public bodies with relevant recommendations. The recommendations made have been forwarded to the Ministry of Information Technology, Communication and Innovation for implementation.

- The ICAC collaborated with the National Committee on Corporate Governance (NCCG) where a Memorandum of Understanding (MoU) was signed with the NCCG to formalise cooperation in promoting good governance in the private sector and the conduct of joint capacity building programmes for Ethics Officers of private businesses. The input of the ICAC was sought for the development of a scorecard, a quantitative tool to measure the corporate governance standards of entities in Mauritius and their level of compliance with the National Code of Corporate Governance in Mauritius. The ICAC was also invited to form part of the Jury Panel for the ‘Board Effectiveness’ category.
- The ICAC also developed and disseminated e-learning courses for private businesses namely the Anti-Corruption Compliance for Businesses. The e-learning course on Anti-Corruption Compliance for Businesses aims to empower private businesses on anti-corruption compliance and to implement such programmes in their enterprises.

Article 11 of the Resolution:

Reaffirms States parties’ commitment to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems, and encourages States parties to take such measures also during times of emergencies and crisis response and recovery;

On 16 March 2020, the Registrar of Companies issued a Practice Direction on Beneficial Ownership pursuant to section 12(8) and 91(8) of the Companies Act 2001 (the “Practice Direction”). The Practice Direction relates to the disclosure of beneficial ownership by companies and other entities such as partnerships and foundations and is meant to assist stakeholders to better understand the provisions of the law relating to Beneficial Owners. It provides that a company must enter in alphabetical order, the names of the Beneficial Owner or Ultimate Beneficial Owner in its share register. The Practice Direction defines ‘Beneficial or Ultimate Beneficial Owner’ as a natural person who holds by himself or his nominee a share or interest in a share which entitles him to exercise not less than 20% of the aggregate voting power in a meeting of shareholders or who exercises overall control over the company.

Law Enforcement Agencies (LEAs) can have access to beneficial ownership information through the Corporate Business Registration Department portal of the Registrar of Companies where Beneficial Ownership information has been filed.

The Financial Services Commission (FSC) also keeps documents in relation to the beneficial ownership information and details on beneficial ownership as the FSC is the integrated regulator in Mauritius for the financial services sector (other than banking) and global business. LEAs can make official requests to the FSC in relation to the beneficial ownership information and details on beneficial ownership for the financial services sector (other than banking) and global business.

Adequate, accurate and up-to-date information on beneficial ownership can be obtained or accessed rapidly and efficiently by competent authorities upon request (letter/email) made to the Supervisory Authority (Registrar). In the event of any request from any foreign jurisdiction for beneficial ownership information, LEAs can access the Register in order to provide the relevant information to their foreign counterpart. However, Beneficial Ownership information does not apply to registered associations and trade unions which fall under the purview of the Registrar of Associations. It is to be noted that there are no shareholdings (i.e. no owners) in associations and trade unions and they cannot be controlled by one person.

Article 12 of the Resolution:

Calls upon States parties to investigate and prosecute offences established in accordance with the Convention against Corruption that result in unfair commercial practices, such as price gouging and the manipulation of the prices of essential goods and services or bids, especially those needed to respond during times of emergencies and crisis;

In Mauritius, there are provisions under the Protection Against Unfair Practices (Industrial Property Rights) Act 2002, Industrial Property Act 2019 and the Competition Act 2007 for investigation and prosecution of unfair commercial practices.

Article 13 of the Resolution:

Encourages States parties to reinforce and enhance inter-agency cooperation at all levels to prevent individuals and companies, other legal entities, and systems used to transfer money, as well as non-regulated or unregistered financial or commercial or non-commercial entities at serious risk of being abused for corruption and money-laundering, from committing or being used to facilitate acts of corruption, including during times of emergencies and crisis response and recovery, and to encourage and support companies and financial institutions in this regard, including to make better use of resources already expended;

In August 2020, all Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Supervisors in Mauritius signed a Memorandum of Cooperation (MoC) which aims at facilitating policy formulation, exchange of information and operational coordination to effectively combat money laundering and the financing of terrorism and proliferation (ML/TF). The parties to the MoC are:

- The Bank of Mauritius;
- The Attorney General's Office;
- The Financial Services Commission;
- The Financial Intelligence Unit;
- The Registrar of Companies;
- The Gambling Regulatory Authority;
- The Registrar of Associations; and
- The Mauritius Institute of Professional Accountants.

An Interagency Coordination Committee was established in August 2020 as per the MoC for optimal implementation of the AML/CFT regime. The Committee is chaired by the Governor of the Bank of Mauritius and comprises all AML/CFT Regulators and Supervisors in Mauritius (FSC, BOM, DNFBP Supervisors and ROA).

The Committee meets on a regular basis to ensure effective implementation of the AML/CFT measures and promote collaboration and coordination amongst the member agencies. The Committee discusses policy formulation and cross-cutting AML/CFT issues and ensured effective implementation of AML/CFT measures, promotes collaboration, coordination and supervisory cooperation amongst the AML/CFT supervisors, and facilitates the implementation of a risk-based approach to AML/CFT supervision.

The Committee also oversees the work of its three Technical Sub-Committees, which comprise of representatives of all member agencies, namely:

- Technical Sub-Committee on Supervision, whose objectives include the establishment of an efficient and robust AML/CFT supervisory framework and the implementation of a risk-based approach to Supervision;
- Technical Sub-Committee on Coordination which focuses on the effective coordination by all supervisory authorities amongst themselves, and with the Financial Intelligence Unit and law enforcement authorities; and
- Technical Sub-Committee on Legal and Regulatory requirements, Training and Outreach which adopts a coordinated approach to the revision of existing laws and regulations related to AML/CFT, and regularly organizes joint outreach sessions for private sector stakeholders, and training sessions for staff members of AML/CFT Regulators and Supervisors. This Technical Sub-Committee also discusses proposals for legislative amendments pertaining to cross-cutting AML/CFT issues.

In view to reinforce and enhance inter-agency cooperation and to prevent individuals and companies to be at serious risk of being abused for corruption and money laundering during times of emergencies and crisis response and recovery, the following measures were undertaken:

- The working relationship between LEAs, Regulators, Supervisors and other stakeholders for the conduct of parallel financial investigations and the sharing of information, amongst others has been set out in various inter-agency MoUs.
- The ICAC has signed MoUs with several local institutions, one of which is the Mauritius Revenue Authority in May 2021. These MoUs facilitate collaboration and exchange of information with these different institutions.

Additionally, the Government has announced that it will soon adopt new legislation for the establishment of a Financial Crime Commission to ensure greater coordination among law enforcement agencies and to reinforce public-private partnership in combating financial crimes.

- ICAC officers were involved in the provision of training to bank staff and police officers. The training focused on how to conduct due diligence effectively in a view to check the economic, legal, fiscal and financial circumstances of a business or individual so that these businesses or individuals are not used as a facilitator for money laundering and corruption.
- The Financial Intelligence and Anti Money Laundering Act 2002 sets out in its First Schedule the members of the relevant profession and their corresponding regulatory body.
- In accordance with Regulations 26(1) of Financial Intelligence Anti Money Laundering Regulations 2018, the financial institution shall appoint a money laundering reporting officer to whom an internal report shall be made of any information or other matter which comes to the attention of any person handling a transaction and which, in the opinion of the person gives rise to knowledge or reasonable suspicion that another person is engaged in money laundering or the financing of terrorism. The MLRO is the person who is nominated to ultimately receive internal disclosures and who considers any report to determine whether an external disclosure is required.

Article 14 of the Resolution:

Also encourages States parties to take anti-corruption measures to ensure that adequate safeguards are in place regarding the use of emergency executive authority during times of emergencies and crisis response and recovery, such as legislative oversight, committee reports and monitoring mechanisms, in accordance with their domestic legal frameworks;

Amendments in Emergency Procurement Legislations

Emergency procurement is regulated as per Section 21 of the PPA 2006 and Section 5C of the Public Procurement (Regulations 2008). Section 21 of PPA 2006 has been amended to reinforce integrity in emergency procurement. Prior to the amendment, Section 21 (1) stipulated that:

‘A public body may purchase goods, other services or works from a single supplier without competition in cases of extreme urgency.’

Subsequent to the amendment, having recourse to a single supplier without competition is no longer the only course of action as Section 21 (1) has been repealed and now replaced as follows:

‘A public body may, in cases of extreme urgency, purchase goods and procure works, consultancy services and other services by such procurement method as may be prescribed.’

In line with the amendments of Section 21, Section 5C of the Public Procurement (Regulations 2008) has been introduced whereby it requires the *chief executive officer* of the public body to evaluate the need for emergency procurement and decide in the manner to proceed to guarantee value for money, with due regard to prevailing circumstances. As per Section 5C (2) of the Regulations:

‘...the chief executive officer of the public body may resort to the selection of the procurement method in the following order of hierarchy –

- (a) call off from an existing framework agreement;*
- (b) extending or modifying an ongoing contract under the same terms and conditions;*
- (c) call for competition using a restricted or open advertised bidding with accelerated timescales;*
- (d) competitive negotiations;*
- (e) direct award due to absence of competition or protection of exclusive rights; or*
- (f) direct award due to extreme urgency.’*

Conference on “Corruption Prevention in Public Procurement in the Post-Covid Era”

In the context of International Anti-Corruption Day 2022, a One-Day Conference on “Corruption Prevention in Public Procurement in the Post-Covid Era” was organized on 09 December 2022 by the ICAC in collaboration with the PPO. The objectives of the Conference were to provide a common platform to:

- reflect on past experiences and challenges to build future anti-corruption strategies for reinforcing probity in procurement;
- take stock of and share efforts/reforms undertaken by authorities in Mauritius; and
- discuss best practices to address challenges in public procurement and propose recommendations for continuous enhancement of the public procurement system.

Article 15 of the Resolution:

Urges States parties to take measures, within their means and in accordance with the fundamental principles of their domestic law, to provide the public with timely information during times of emergencies and crisis response and recovery, to prevent and combat corruption and to counter misinformation;

As regards to the provision of timely information to the public, including times of emergency and crisis, there are provisions under the PPA for the publication by PPO and/or public body of the award of contracts.

The relevant part of the provision of the PPA 2006 reads as follows:

“(3) A public body in relation to a procurement contract, the value of which is above the prescribed threshold shall notify the successful bidder in writing of the selection of its bid for award and a notice in writing shall be given to the other bidders, specifying the name and address of the proposed successful bidder and the price of the contract...”

(7) A public body shall promptly publish, in such manner as may be prescribed, notice of every procurement award...”

The prescribed threshold, by virtue of section 38(3) of the PPA 2006 is Rs 15M.

In addition, Section 38 of the Public Procurement (Regulations 2008) provides as follows:

(1) Following the identification of the successful bidder in accordance with section 40 of the Act, a public body shall – (a) notify the bidder of the proposed award of the contract within 5 days from the date of receipt of approval from the Central Procurement Board; (b) promptly publish notice of every procurement award as provided under regulations 71.

(2) Notwithstanding paragraph (1)(a) where a public body considers that it requires more than 5 days, it shall promptly notify the Board and the Policy Office giving reasons for an extension of the delay.

(3) For the purposes of section 40(3) of the Act, the prescribed threshold shall be 15 million rupees.

Article 16 of the Resolution:

Notes with appreciation the important role of civil society, academia, the private sector and the media in identifying, detecting and reporting on cases of corruption and, in this regard, urges States parties to take appropriate measures, within their means and in accordance with the fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations, community-based organizations and the private sector, in the prevention of and fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, including during times of emergencies and crisis response and recovery, encourages States parties to respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, which may be subject to certain restrictions, such as are provided for by law and are necessary for respect of the rights or reputations of others and for the protection of national security, public order or public health or morals, and also encourages States parties to consider inviting those individuals and groups to contribute to the development and implementation of technical assistance programmes, upon request and based on the needs identified for the implementation of the provisions of the Convention against Corruption, and making efforts so that the conditions are present for their effective contribution to achieving the objectives of the Convention, including the ability to operate independently and without fear of reprisal because of their efforts in that regard, in accordance with domestic law and their respective applicable international obligations;

Civil Society

A successful fight against corruption should address both the demand and the supply side of corruption. Whilst the demand side of corruption concerns the public sector, the supply side of corruption relates mainly to civil society and the private sector. The ICAC has continuously enlisted the support of the civil society to sustain the fight. Numerous platforms have been set up to secure the engagement of civil society in the fight against corruption with the active participation of the youth, women, trade unions, NGOs, socio-cultural groups, religious groups, amongst others. Empowerment and face-to-face education sessions have been the main thrusts to build corruption resistance among these groups to make them become agents of change.

Thus, the various platforms set up are namely the Comité Anti-Corruptions (CACs), the Civil Society Network Against Corruption (CSNAC) and the Trade Union Against Corruption (TAC) which aim at enlisting the active participation of civil society in various initiatives.

Private Sector

A wide range of anti-corruption programmes have been developed by the ICAC to raise awareness on the harms of corruption as well as to empower stakeholders in the fight against corruption. These programmes also targeted the private sector.

In this respect, networking and the development of effective partnerships with key stakeholders in both the public and private sectors were encouraged to reinforce and sustain the fight against corruption. These networks have gradually moved towards the setting up of the Public Private Platform Against Corruption (PPPAC).

The PPPAC was set up in 2013 to ensure collective action against corruption by two major stakeholders, namely the public sector and the private sector. The purpose of this platform is to provide for a consultative forum against corruption while fostering interaction between public and private sectors for a corrupt-free Mauritius, in line with domestic and international legislations and conventions such as the POCA 2002, UK Bribery Act 2010, the UNCAC, and the Southern African Development Community Protocol Against Corruption.

The platform enables various interest groups to work together to build a strong alliance against corruption. One of the objectives of the PPPAC is to identify and prioritise corruption risk areas which require robust actions from both sides and work towards the elimination of those inadequacies. The PPPAC has produced the following reports:

- Allocation of permits for foreign labour;
- Procurement;
- Building and Land Use Permits by Local Authorities;
- Allocation of permits by the Beach Authority and Tourism Authority; and
- ICT and emerging corruption risks.

Moreover, the ICAC has developed collaborative ties with major private sector organisations/associations representing private businesses in Mauritius namely Business Mauritius, Mauritius Chamber of Commerce and Industry, and the National Committee on Corporate Governance.

Other ongoing engagements with the private sector include the conduct of regular anti-corruption empowerment sessions to promote and sustain a culture of integrity, transparency and accountability.

Article 17 of the Resolution:

Calls upon States parties to establish and, where appropriate, diversify and strengthen confidential complaint systems and protected reporting systems that are accessible and inclusive

to facilitate the timely reporting of and to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds any facts concerning offences established in accordance with the Convention against Corruption, including as they relate to the allocation, distribution, use and management of emergency relief;

By virtue of Section 48 of the POCA 2002, when the ICAC receives information in confidence that an act of corruption has occurred, that information and the identity of the informer shall remain confidential.

As per Section 49(5) of the POCA 2002 relating to victimisation of witnesses, any person who commits an act of victimisation against a person who has reported an act of corruption will, on conviction, be liable to pay a fine of up to MUR50,000 and imprisonment of up to one year.

Article 19 of the Resolution:

Also encourages States parties to provide the necessary training and resources to ensure that relevant officials of oversight institutions have the tools and expertise required to analyse data and information to inform crisis planning, response and recovery, and in this regard further encourages States parties to take advantage of capacity-building and training programmes provided by the United Nations Office on Drugs and Crime and other relevant international organizations and institutions, such as the International Anti-Corruption Academy, to increase public awareness and integrity;

Independent Commission Against Corruption

- The support of the United Nations Office on Drugs and Crime, United Nations Development Programme, Commonwealth Secretariat, the European Union and other international organisations have been instrumental in the capacity building and development of ICAC staff. Training programmes provided by these international organisations have enhanced operational, administrative, supervisory and leadership skills, knowledge and capacity at the Commission.
- The ICAC collaborated with the Chartered Institute of Public Finance and Accountancy (CIPFA) in the development and piloting of an International Certificate in Corruption Risk Management. CIPFA is a UK-based international accountancy membership and standard-setting body which believes that improving public services is key to changing lives for the better and that good public financial management is central to achieving this ambition. The official launching of the course was held in April 2022 following the signature of an MoU with CIPFA in March 2022.
- As mentioned above, the ICAC conducted a workshop for Internal Auditors/Controllers of Local Authorities. Internal auditors/controllers have a leading role regarding the enhancement of internal controls to detect and prevent corruption/malpractices and abuses.

- Other interventions/measures that have been conducted by the ICAC for awareness raising and prevention measures for public officials that are vulnerable to corruption and other forms include the following, amongst others:
 - Conduct of anti-corruption sensitisation, awareness and empowerment sessions meant for the public, private, education sectors, as well as the civil society.
 - Development and dissemination of Best Practice Guides, Communiqués, Code of Conducts and E-Learning Tools, as well as conduct of workshops and campaigns.
 - Conduct Corruption Prevention Reviews and CRA exercises in Ministries, parastatal bodies, state-owned enterprises, government departments and local authorities in line with the implementation of the Public Sector Anti-Corruption Framework.

National Audit Office

The NAO believes in the continuous development of its staff members, as they are the most important asset, and strives to improve its performance by imparting continuous, relevant training and coaching to its staff so that it continues to stay relevant within a rapidly changing environment. By imparting relevant training and coaching to its staff, NAO enables them to stay relevant within a rapidly changing environment, heading towards digitalisation. In this respect, the NAO has developed a Capacity Building Development Policy which establishes the procedure and criteria for the nomination/selection of candidates for capacity development events. The Office has also set up a Capacity Building Development Committee to identify potentials for capacity development for all grades of officers at the NAO. Selections of topics/themes as well as selection of participants are carried out by the Committee on the basis of clearly laid down internal procedures.

To produce high quality reports, the staff of the Performance Audit Division were previously provided with a framework with the support of AFROSAI-E for knowledge in data collection and data analysis both quantitative and qualitative using ICT. The impact of the framework is to carry out audits that use more advanced methods and present new analytical insights that help to detect anomalies and potential fraud risk.

Article 20 of the Resolution:

Urges States parties to collect and exchange best practices in preventing and fighting corruption and lessons learned concerning the use, availability and impact of data and digital tools, where feasible and taking into consideration the different circumstances of respective countries, to inform crisis response and recovery measures and help build, implement and maintain resilient emergency response systems;

Please refer to the answers above in Articles 2 and 9.

Article 21 of the Resolution:

Recalls article 43 of the Convention against Corruption, in which States parties are mandated to cooperate in criminal matters and, where appropriate and consistent with their domestic legal

systems, consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption, also recalls article 46 of the Convention, in which States parties are mandated to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, through central authorities, and urges States parties to assist one another, including through joint or parallel investigations and bilateral sharing of capacity and expertise, where appropriate, through INTERPOL, including during times of emergencies and crisis response and recovery;

The legal framework in Mauritius is the Mutual Assistance in Criminal and Related Matters Act 2003. Assistance sought is made to the Attorney General's Office, which is the Central Authority through the latter act on the basis of the UNCAC, to which Mauritius is a signatory. The objective of this act is to facilitate cooperation and assistance between Mauritius and foreign countries in the investigation and prosecution of criminal offences. Also, it aims to strengthen the ability of Mauritius to combat transnational crimes, such as drug trafficking, money laundering, terrorism, and organized crime. The Mauritius Police Force is a member of INTERPOL. Mauritius promotes both formal and informal cooperation and participates actively in such cooperation.

The ICAC has also established working collaborative engagement as a result of the MoUs signed with the nine anti-corruption bodies in the African continent and one from the Asian continent.

Moreover, the ICAC has been an associate member of the International Anti-Corruption Coordination Centre (IACCC) since 2020, thus reinforcing informal collaboration in investigations and ICAC has also signed a MoU with the IACCC in July 2020. Since then, this network has been productively used in at least 3 of ICAC's cases with international ramifications. Requests from the IACCC have also been treated at ICAC's level. Additionally, IACCC has delivered both on-site and virtual training to ICAC staff.

Mauritius has officially been admitted as 'participant' member of the OECD Working Group on Bribery in International Business Transactions in February 2023. The 'participant' member status is for 2 years. As such, Mauritius is actively preparing to eventually accede to the OECD Anti-Bribery Convention.

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In relation to an ongoing joint investigation, ICAC signed an agreement for the establishment of a joint investigation team with the Special Crime Unit of Denmark, setting out the rules for the exchange of information between them.

Mauritius was also a guest country under India's Presidency of the G20 for the year 2023. ICAC actively participated in the G20 Anti-Corruption Working Group (ACWG) meetings and rigorously contributed to the deliverables of G20 ACWG.

2. Challenges encountered

Please describe any challenges your country has encountered in implementing operative paragraphs 1 to 21 of resolution 9/1 regarding strengthening international cooperation in the prevention of and

fight against corruption during times of emergencies and crisis response and recovery. *Please state the relevant operative paragraphs in your answer.*

Article 2 of the Resolution:

Also encourages States parties to continuously monitor and review the anti-corruption measures implemented during the ongoing coronavirus disease (COVID-19) pandemic and other times of emergencies and crisis response and recovery and to monitor the impact of the COVID-19 pandemic on corruption-related trends, keeping in mind that corruption risks may have increased during the pandemic;

The recommendations made by the ICAC in Corruption Prevention Reviews in a public body are not binding as it is at the discretion of the public body to implement the said recommendations. In case recommendations are not implemented, the law does not provide for any sanction.

Article 11 of the Resolution:

Reaffirms States parties' commitment to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems, and encourages States parties to take such measures also during times of emergencies and crisis response and recovery;

With respect to international cooperation, communication breakdowns and cultural differences have been identified as one of the main challenges. Jurisdictional and legal barriers also hinder the sharing of sensitive information.

Moreover, it is costly to verify beneficial ownership information, where foreign jurisdictions and complex structures are involved, particularly in the absence of public registries, in circumstances where databases may not be easily available or affordable.

Article 12 of the Resolution:

Calls upon States parties to investigate and prosecute offences established in accordance with the Convention against Corruption that result in unfair commercial practices, such as price gouging and the manipulation of the prices of essential goods and services or bids, especially those needed to respond during times of emergencies and crisis;

Delay is encountered in investigation and prosecution due to factors beyond the LEAs and/or the Court's control.

However, it is worth pointing out that in 2021, since the operationalisation of the Financial Crimes Division at the level of the Intermediate Court of Mauritius, financial crime cases are being heard and disposed of within a shorter timeframe.

Article 21 of the Resolution:

Recalls article 43 of the Convention against Corruption, in which States parties are mandated to cooperate in criminal matters and, where appropriate and consistent with their domestic legal systems, consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption, also recalls article 46 of the Convention, in which States parties are mandated to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, through central authorities, and urges States parties to assist one another, including through joint or parallel investigations and bilateral sharing of capacity and expertise, where appropriate, through INTERPOL, including during times of emergencies and crisis response and recovery;

The processing of mutual legal assistance requests made by Mauritius to some jurisdictions is a lengthy process. There is the apprehension that Prosecution is not being conducted in a reasonable time, as per the requirements of the Constitution of the Republic of Mauritius.