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United Nations Office on Drugs and Crime

Country Review Report of The United Republic of Tanzania

Review by Ethiopia and Georgia of Tanzania's implementation of articles 5-14 of Chapter II "Preventive Measures" and articles 51-59 of Chapter V "Asset Recovery" of the United Nations Convention against Corruption for the second review cycle (2016-2021)

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference of the States Parties established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Review Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by the United Republic of Tanzania (hereinafter, Tanzania) of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Tanzania, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Ethiopia, Georgia and Tanzania, by means of telephone conferences, e-mail exchanges or any further means of direct dialogue in accordance with the terms of reference and involving Mr. Valentino Mlowola, Mr. Stanley Luoga, Ms. Tunu Mleli and the national stakeholders listed below (Tanzania), Mr. Girma Worku, Mr. Aklilu Mulugeta, Mr. Adane Melese, Mr. Neway Girma and Ms. Betelhem Tadesse (Ethiopia) and Mr. Zurab Sanikidze and Mr. Irakli Chilingarashvili (Georgia). The staff members of the secretariat were Ms. Tanja Santucci and Mr. Meder Begaliev.
6. A country visit, agreed to by Tanzania, was conducted from 16-18 April 2018 in Dar es Salaam. The following institutions and representatives participated in the country visit: President's Office, Ethics Secretariat (John M. Kaole), President's Office, Public Service Management and Good Governance, PO-PSMGG (Magareth Ngodya), National Electoral Commission (Dutu J. Kasanda), Financial Intelligence Unit (Seba Malocha and Charles B. Masolwa), National Prosecution Service (Mr. Oswald Tibabyekomya), Attorney General's Chambers (Killey Mwitaa), Prevention and Combating of Corruption Bureau, PCCB (Brig.Gen. John Mbungu, Stanley Luoga, Doreen Kapwani, Daniel John Pundu, Tunu Mleli, Emmanuel Jacob, Lilian William, Abdul Abdurahman), Ministry of

Foreign Affairs and East African Cooperation (Blandina Kasagana), judiciary of Tanzania (Karol Mashauri), Tanzania Revenue Authority (Sospeter Makubi and Oberd Mwampullo), Public Procurement Regulatory Authority (Bertha Rutenganya), Office of Registrar of Political Parties (Piencia C. Kiure), National Audit Office (Frank Sina), Foundation for Civil Society (Francis Uhadi and Karin Rupia) and Tanzania Private Sector Foundation (Rehema Mtingwa).

7. Following the country visit, a national stakeholder workshop was convened on 28 February 2019 for the purposes of validating the draft country review report and executive summary. The following institutions and representatives were present: Ministry of Constitutional and Legal Affairs (Griffin Mwakapaje), Ministry of Foreign Affairs and East African Cooperation (Gwantwa Mwaisaka), President's Office - Public Service Management and Good Governance, PO-PSMGG (Ms. Margareth Ngodya), judiciary of Tanzania (Happiness P. Ndesamburo), National Prosecution Service (Frederick K. Manyanda), the Office of the Attorney General (Ntuli Mwakahesya) President's Office, Ethics Secretariat (John M. Kaole), Financial Intelligence Unit (Seba Malocha), National Audit Office (Magdalena J. Danda), National Electoral Commission (Victor Zacharia Mhapa), Public Procurement Regulatory Authority (Grentina Barnaba Kidulile), Good Governance and Reform Department (Emmanuel Mwanga), Tanzania Private Sector Foundation (Rehema Mtingwa), PCCB (Stanley Luoga, Doreen Kapwani, Dr. Omar Mzee, Lilian William, Asseri Mandari and Tunu Mleli).

III. Executive summary

1. Introduction: overview of the legal and institutional framework of the United Republic of Tanzania in the context of UNCAC implementation

The United Republic of Tanzania signed the Convention on 9 December 2003 and ratified it on 25 May 2005. To enhance implementation of the Convention, the United Republic of Tanzania enacted the Prevention and Combating of Corruption Act (PCCA) on 16 April 2007.

The implementation by the United Republic of Tanzania of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 18 February 2014 (CAC/COSP/IRG/I/3/1/Add.9).

The legal system of the United Republic of Tanzania is based on the English common law.

The implementing legislation for chapters II and V of the Convention includes, notably, the following: PCCA, Penal Code (PC), Criminal Procedure Act (CPA), Public Service Act (PSA), Public Leadership Code of Ethics Act (PLCEA), Public Procurement Act 2011 (PPA), Whistleblowers and Witness Protection Act (WWPA), Anti-Money Laundering Act (AMLA), Proceeds of Crime Act (POCA) and Mutual Assistance in Criminal Matters Act (MACMA). However, key legislation and measures to give effect to the requirements of the Convention are applicable only in mainland Tanzania. No information on the implementation of

the corresponding provisions in Zanzibar was available.

Relevant institutions mandated with the prevention of and fight against corruption include the following: Prevention and Combating of Corruption Bureau (PCCB), National Prosecution Service (NPS), Office of the Attorney-General (OAG), Good Governance and Reform Department (GGR), President's Office-Public Service Management and Good Governance Unit (PO-PSMGG), Ethics Secretariat (ES), National Audit Office of Tanzania (NAOT), Public Procurement Regulatory Authority (PPRA), the judiciary and Financial Intelligence Unit (FIU).

2. Chapter II: preventive measures

2.1 Observations on the implementation of the articles under review

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

The United Republic of Tanzania has developed a National Anti-Corruption Strategy and Action Plan and is currently implementing its third phase (NACSAP III). The third phase focuses on building systems of integrity, accountability and transparency in public and private institutions. Views from all sectors of society, including private, religious and media representatives, were collected and considered in the development of NACSAP III.

The implementation of NACSAP has enabled the enactment of AMLA, PCCA, PLCEA and PPA and the subsequent creation of PPRA and FIU.

The Chief Secretary, as the Head of Public Service and Secretary to the Cabinet, is overall in charge of the implementation of NACSAP III. The Chief Secretary also coordinates, monitors and evaluates the implementation of the Strategy through the GGR in the President's Office, while the execution of the Strategy is monitored by various bodies such as PCCB and ES.

The United Republic of Tanzania follows a need-based approach to reviewing laws and administrative measures.

PCCB is mandated with preventing and combating corruption in the public and private sectors (sect. 7, PCCA). It oversees and coordinates the implementation of corruption prevention policies and is responsible for increasing and disseminating knowledge about corruption prevention.

PCCB independently determines its recruitment policy and manages its recruitment process but must obtain PO-PSMGG approval to recruit new staff. The Director-General (DG) of PCCB is appointed by the President (sect. 6 (2), PCCA). However, security of tenure is not established. The United Republic of Tanzania is considering introducing a five-year term for the DG and the establishment of a special committee to remove the DG and the Deputy DG in case of misconduct.

In addition, integrity committees in public bodies are charged to prevent corruption and maladministration in their respective offices.

The United Republic of Tanzania participates in various international and regional anti-corruption initiatives. In particular, PCCB cooperates with international

partners in the prevention and fight against corruption.

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

The recruitment, hiring, retention, promotion and retirement of civil servants is regulated principally by PSA, the Written Laws (Misc. Amendment) Act 2013, Standing Orders for the Public Service and the Public Service Recruitment Secretariat (PSRS) Regulations (GN No. 25/2016).

PO-PSMGG is the government ministry responsible for personnel matters, administration of the public service and development of policies on human resources management, ethics, payroll, etc. It monitors ethics compliance, determines training needs and provides training to public entities on ethics and anti-corruption, including ethics complaint-handling mechanisms. Similarly, ES promotes and monitors the conduct and behaviour of public leaders as defined in PLCEA.

All public service positions are advertised on and applications are submitted through the recruitment portal maintained by PSRS.

The United Republic of Tanzania has established a general rotation system for public servants, which prescribes a minimum duration of three years and a maximum duration of five years for public servants to remain in one duty station, pursuant to Public Service Circular No. 1 of 1978. These measures apply to all public servants.

Qualification criteria for candidates in presidential, parliamentary and local elections are provided in the Constitution (arts. 21 and 39), National Election Act (sect. 36, Chapter 343), Local Authorities (Elections) Act (sect. 12 and sect. 3, Chapter 292) and PLCEA. These provisions also provide for disqualification criteria which include prior conviction for offences involving dishonesty and tax evasion.

The legislative framework to regulate electoral and political party funding consists mainly of the Election Expenses Act 2010 (EEA) and the Political Parties Act 1992 (PolPA). Political parties shall submit to the Office of the Registrar of Political Parties an annual statement of accounts audited by CAG (sect. 14, PolPA). Candidates, political parties and organizations which participated in election activities shall keep all records related to election expenses (sect. 19, EEA).

There are no limits on political donations, but their source must be disclosed if the donation exceeds 1 million Tanzanian shillings (approximately \$440). Sanctions for non-disclosure are provided under EEA and may include a prohibition to participate in elections.

There are several codes or standards of conduct for public officials. Among them are PLCEA, the Code of Ethics and Conduct for the Public Service (CECPS, applicable to persons who are not covered by PLCEA) and different professional codes of conduct. The codes are periodically reviewed.

Various disciplinary measures, including dismissal, are provided for breach of PLCEA (sect. 8). Breaches of CECPS carry similar sanctions (Schedule 1 (available sanctions) and Regulations 41–44 (conduct of proceedings) of PS Regulations

2003).

PLCEA lists the categories of public leaders who shall declare assets and provides penalties for non-compliance. Public leaders are not obliged to declare non-financial interests, such as outside activities and employment, positions in companies, other associations, gifts or benefits from which a potential conflict of interest may arise. ES selects a certain number of disclosures based on risk and other factors for physical verification annually.

Other public servants must disclose conflicts of interests pursuant to CECPS (sect. VIII, 4). Members of parliament and the Speaker of the National Assembly must further make ethics and conflict-of-interest declarations (arts. 69 and 84, Constitution).

CECPS prohibits public servants or their family members from accepting gifts, except for gifts of de minimis value. Public leaders must declare gifts in excess of 200,000 Tanzanian shillings (approximately \$88) (sect. 12(2) PLCEA and sect. 65 of the Written Laws (Miscellaneous Amendment) Act No. 2 of 2016 (WLA)).

The WWPA defines public interest disclosures and establishes protections for whistle-blowers in the public and private sectors. Sanctions for persons who engage in retaliatory acts and measures to protect the identity of informers are established in the PCCA (sects. 51 and 52).

When an integrity committee receives a report of corruption, it may recommend preventive or disciplinary measures. If the report tends to show that an offence has been or is being committed, the committee shall report it to PCCB.

Recruitment of judicial officers is done by open advertisement. An independent committee selects qualified applicants, and open interview is done by an independent committee.

The Code of Conduct for Judicial Officers, developed in compliance with the Bangalore Principles of Judicial Conduct, guides the conduct, integrity and ethics of judicial officers and prohibits judicial officers from engaging in economic activities, which are inconsistent with judicial office. Judicial officers shall not engage in politics or be members of any political party and must declare assets to ES.

The Judiciary Administration Act No. 4 provides for disciplinary mechanisms of judicial officers. The Judicial Service Commission is responsible for the overall conduct and ethics of judicial officers and runs annual training programmes that cover issues of integrity and ethics.

The PSA and PS Regulations apply to the staff of NPS and OAG.

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

To enhance procurement practices, Tanzania has adopted the PPA and Public Procurement Regulations 2013 (PPR 2013), together with the PPA (Amendment) Act 2016 and Public Procurement Regulations (Amendments) 2016 (PPR 2016).

Public procurement is decentralized and PPRA is mandated under PPA to monitor and report on the performance of the procurement systems in all procuring entities (PEs), to monitor the award and implementation of public contracts, and to institute

procurement, contract and performance audits.

Sections 31, 39 and 40 of PPA require PEs to establish a tender board, procurement management unit, internal audit unit, user department and evaluation committee. The duties of these units and of the budget approving authority and Accounting Officer (AO) are defined under PPA. The overall oversight for each procuring function is vested in the budget approving authority.

PEs must submit all competitive tender notices to PPRA for publication in the Journal and Tenders Portal and advertise them in a local newspaper of wide circulation. Tender notices must be published in sufficient time (sect. 68(3), PPA, and the eighth schedule of PPR 2013, as amended by PPR 2016). Contract award information must also be forwarded to PPRA for publication in the Portal.

PEs shall consider the competitive tendering method first. Other tendering methods may be used in specific circumstances as provided in relevant PPRs and subject to the approval of tender boards.

Monitoring and audit staff shortages in PPRA and limited implementation of electronic procurement systems result in less than 20 per cent of PEs being audited every year. Similarly, there is limited capacity to detect and investigate procurement violations.

Suppliers and service providers must sign an anti-bribery policy to commit that they will not indulge in corrupt practices. Likewise, evaluation committee members and tender board members must sign codes of conduct and declare that they do not have a conflict of interest. Suppliers who have engaged in fraudulent practices may be debarred by PPRA.

Regulations 104 to 107 of PPR 2013 outline the procedure to challenge procurement decisions.

The Budget Act is the main legal framework to regulate the adoption of the state budget and risk management and internal control of public finances in public bodies.

The Ministry of Finance and Planning leads the development of a draft state budget which is presented to the National Assembly for debate and approval. The parliamentary process is public. Budget execution reports, budget books and consolidated audited financial statements are published on the Ministry's website. However, budget execution reports are not published systematically and do not cover every previous financial year.

AOs are responsible for the correct and efficient use of public resources in public institutions and establishing systems of internal audit, control and risk management to achieve it (sect. 2, Budget Act; sects. 33–35, Local Government Finance Act). External audit is conducted by NAO and potential cases of fraud or misuse are communicated to PCCB and other appropriate bodies.

The Records and Archives Management Act 2002 regulates the use and storage of all records of public bodies and criminalizes destruction of such records. In addition, falsification of public finance records may constitute forgery under PC and a violation of CECPS.

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

The Access to Information Act 2016 and the Access to Information Regulations, 2017 (Government Notice No. 507 of 2017) of the United Republic of Tanzania enable public access to information under the control of public bodies (sect. 2).

The Act establishes the procedure for access to information (sect. 10) and requires all public bodies to appoint one or more information officers to deal with requests for information (sect. 7), to publish certain information (sect. 9) and to maintain records (sect. 8). Aggrieved persons may apply for internal review and may thereafter appeal to the Minister responsible for legal affairs, whose decision is final (sect. 19).

The United Republic of Tanzania has undertaken several public service management reforms to enhance quality, efficiency and effectiveness of public service

delivery. For example, an e-Government Agency coordinates, oversees and enforces e-government initiatives in public institutions.

PCCB conducts periodic corruption risk assessments and publishes these reports.

Representatives of civil society organizations (CSOs) are regularly invited to policy review exercises organized by government. CSOs also engage in activities to monitor the actions and decisions of government in potential risk areas.

PCCB conducts various awareness-raising activities. Together with the Ministry of Education, PCCB has introduced ethics classes in primary schools, with plans for extension to secondary schools.

Corruption can be reported to PCCB via emergency telephone number 113. PCCB regularly conducts awareness-raising campaigns to encourage reporting. Reporters can enjoy protections of WWPA and PCCA, provided their reports meet the requirements of the Acts.

Private sector (art. 12)

The United Republic of Tanzania has introduced measures to prevent corruption in the private sector. Law enforcement agencies regularly cooperate with the private sector on corruption prevention. In particular, PCCB conducts workshops with financial institutions, NGOs and the private sector to enhance awareness of corruption. The private sector also regularly reports corruption incidents to PCCB.

The Companies Act 2002 and the Capital Markets and Securities Act are the governing laws that regulate corporate governance and internal audit. Some regulators and supervisory authorities (Bank of Tanzania (BOT), Capital Markets and Securities Authority) have also issued industry-specific standards.

The Business Registration and Licensing Authority maintains a register of companies and sole proprietors which can be accessed for a fee. No information on measures to prevent the abuse of subsidies or licenses for commercial activities was provided.

A six-month cooling-off period for public leaders is provided under WLA (sect. 62). However, there is no enforcement mechanism to ensure compliance.

The United Republic of Tanzania has adopted International Financial Reporting Standards for private entities, which prescribe relevant rules to prevent false accounting. However, these Standards do not extend to small and medium-sized enterprises.

Under the Auditors and Accountants (Registration) Act 1972 of the United Republic of Tanzania, and its amendments, the National Board of Accountants and Auditors is responsible for establishing an investigative and disciplinary system for all professional accountants. The Act makes it a criminal offence to purposefully make any false or incorrect entry in the register or any false or misleading statement. Certain accounting or auditing violations may constitute crimes of misappropriation or fraud under PC.

Bribes and expenditure incurred in corrupt practices, except for bribes to foreign officials and expenditure incurred in corrupt practices abroad, are not tax deductible (sect. 11(4), Income Tax Act).

Measures to prevent money-laundering (art. 14)

The domestic regulatory and supervisory regime of the United Republic of Tanzania for money-laundering prevention includes requirements for customer and beneficial owner identification and verification, record-keeping, transaction monitoring and the reporting of suspicious transactions (STRs). Pursuant to AMLA 2006, as amended in 2012, the main categories of financial institutions and designated non-financial businesses and professions (DNFBPs) are included as “reporting persons”.

The United Republic of Tanzania conducted a national risk assessment (NRA) from September 2015 to December 2016 and is currently working on implementation of the NRA results. While the 2012 AML Regulations provide for a risk-based approach to KYC and CDD requirements, in other areas RBA has not yet been adopted and implemented.

The cooperation and exchange of domestic information on money-laundering is guided by AMLA, as amended. Section 8 establishes the National Multi-Disciplinary Committee to advise government on legislative, regulatory and policy reforms on anti-money-laundering. Internationally, the United Republic of Tanzania participates in relevant networks and initiatives, such as the Eastern and Southern Africa

Anti-Money Laundering Group (ESAAMLG), the Southern African Regional Police Chiefs Cooperation Organization and the International Criminal Police Organization. FIU is a member of the Egmont Group and has signed memorandums of understanding for information exchange with its counterparts.

AMLA establishes relevant measures to detect and monitor the movement of cash and appropriate negotiable instruments (BNIs) across the borders. Implementing Regulations set out the prescribed amount for declaration of currency and BNIs (\$10,000).

Money-value transfer providers (MVTPs) are under the supervision of BOT and the Tanzania Communications Regulatory Authority and are required to comply with anti-money-laundering obligations as reporting persons in the category of cash

dealers. However, no guidelines have been issued for MVTPs, and some limited inspections of the sector have begun.

Section 4 of AMLA gives FIU power to receive electronic funds transfer reports. However, the draft implementing regulations have not been enacted.

Zanzibar has its own Anti-Money Laundering and Proceeds of Crime Act and Regulations. FIU oversees implementation of requirements relating to anti-money-laundering/countering the financing of terrorism with respect to Zanzibar as well. No information on the implementation of these provisions in practice was available.

2.2 Successes and good practices

- *The existence of Integrity Committees in central government institutions (art. 5)*
- *The PCCB's Department of Community Education (art. 6, para. 1)*

2.3 Challenges in implementation

It is recommended that the United Republic of Tanzania:

- *Ensure the full implementation of the Convention's obligations under chapter II in respect of Zanzibar.*
- *Continue efforts to fully implement NACSAP III in light of lessons learned and international good practices, taking into account the technical assistance requested, and establish integrity committees at all levels of Government and ensure their effectiveness in corruption prevention (art. 5, para. 1).*
- *Consider a more structured approach to the periodic review and revision of laws and administrative measures aimed at preventing and countering corruption (art. 5, para. 3).*
- *Continue to devote adequate resources towards corruption prevention functions, in accordance with available resources (art. 6, para. 1).*
- *Continue to implement measures to strengthen the independence of PCCB and continue to invest in the development, training and capacity-building of skilled personnel to effectively carry out the functions of PCCB (art. 6, para. 2).*
- *Endeavour to establish a more systematic approach to providing ethics and anti-corruption training to relevant officials, including extending the existing training to a wider group of public entities and public servants (art. 7, para. 1).*
- *Consider publishing accounts of political parties as submitted to the Registrar of Political Parties and lowering substantially or eliminating the thresholds for anonymous donations as provided in section 11(1), EEA (art. 7, para. 3).*
- *Consider amending WWPA to protect whistle-blowers from potential civil or criminal liability and consider extending the protections of the Act to those who do not use the prescribed reporting channels (art. 8, para. 4).*

- *Endeavour to introduce comprehensive measures requiring public leaders and other public officials to declare their interests, gifts or benefits from which a conflict of interest may arise (including non-pecuniary interests) and effective systems of verification of such declarations. Apart from declarations, it would also be important to introduce measures to manage conflicts of interest where they arise (art. 8, para. 5).*
- *Take further measures to improve public procurement systems by, inter alia: (a) improving monitoring and auditing of procurement entities and their procurement decisions; (b) improving the capacity of authorities to effectively detect and investigate violations of procurement rules; (c) raising awareness of corruption risks among stakeholders such as suppliers and service providers; and (d) continuing to implement and strengthen the electronic procurement system (art. 9, para. 1).*
- *Ensure that appropriate risk management and internal control systems are established in every ministry, department and agency and monitor that the information on budget execution, including revenue and expenditure, is timely and periodically reported in a clear and accessible manner (art. 9, para. 2).*
- *Ensure that the Access to Information Act is operationalized and that public bodies, members of the public and other stakeholders are aware of its requirements and enforcement mechanisms (art. 10 (a)).*
- *In order to prevent corruption in the private sector, take appropriate measures to: (a) promote the development of standards of corporate governance and codes of ethics across all business sectors and relevant professions; (b) adopt measures to prevent the abuse of subsidies and licenses for commercial activities; and (c) develop comprehensive regulations on post-employment restrictions for public officials and establish effective mechanisms to enforce such regulations (art. 12, paras. 1 and 2).*
- *Ensure that the relevant laws and regulations effectively prohibit all acts listed under article 12, paragraph 3, of the Convention.*
- *Amend relevant laws to ensure that all forms of corrupt payment or benefit, including bribes to foreign public officials, are not deductible from income for tax purposes (art. 12, para. 4).*
- *Continue to implement the NRA results and the risk-based approach (RBA) to anti-money-laundering/countering the financing of terrorism. All supervisors across the financial and non-financial sector should continue to use the findings of NRA to promote and apply the risk-based supervisory framework, commensurate with the risks facing their regulated entities. Supervised entities should be required to apply RBA in all relevant areas, in accordance with the business risk profile. The anti-money-laundering obligations should be extended to all Financial Institutions and DNFBPs, including MVTPS. NRA results should be used to inform the development of a national strategy on anti-money-laundering/countering the financing of terrorism (art. 14, para. 1).*

- *Strengthen the application and effective enforcement of the preventive framework set out in articles 14 and 52 of the Convention in Zanzibar, and strengthen cooperation and coordination with the relevant institutions in Zanzibar, in particular regarding the reporting and transmission of STRs and application of the supervisory framework (art. 14, para. 1).*
- *Ensure effective enforcement of anti-money-laundering obligations of MVTPs through inspections and oversight. Furthermore, expedite enactment of implementing regulations on electronic funds transfers (art. 14, para. 3).*

2.4 Technical assistance needs identified to improve implementation of the Convention

- *Legislative assistance (art. 8)*
- *Policymaking (art. 8, paras. 1–3 and 5 and 6; and art. 14)*
- *Capacity-building (art. 5, paras. 1 and 6; art. 7, paras. 1 and 4; art. 8, paras. 5 and 6; art. 9, para. 1; art. 10 (c); art. 13, para. 2; and art. 14)*
- *Research/data-gathering and analysis (arts. 7, 8 and 14)*

For details, please refer to the annex to the full report.

3. Chapter V

3.1 Observations on the implementation of the articles under review

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

MACMA provides the legal framework for international cooperation on asset recovery. Assistance under the Act is limited to countries designated by order of the Minister, with which reciprocal arrangements for mutual legal assistance have been made. To date no countries have been so designated.

The United Republic of Tanzania has signed two treaties on mutual legal assistance in civil and criminal matters (not limited to asset recovery). Assistance can be provided in the absence of a treaty on the basis of reciprocity, and under the (Harare) Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth. The Convention may be directly applied, and the United Republic of Tanzania has had experience using the Convention as a legal basis for international cooperation.

The United Republic of Tanzania has never formally refused an asset recovery request. There have been no completed cases relating to the recovery of foreign assets located in the United Republic of Tanzania.

No information on the implementation of asset recovery provisions in Zanzibar in practice was available.

Law enforcement authorities, primarily FIU and police, spontaneously share information relating to the proceeds of crime with foreign counterparts.

Prevention and detection of transfers of proceeds of crime; financial intelligence

unit (arts. 52 and 58)

The United Republic of Tanzania has established KYC and CDD requirements for reporting persons, which include customer acceptance policy, customer identification, ongoing monitoring of high-risk accounts and risk management. The Regulations require reporting persons to take reasonable measures to verify the identity of beneficial owners. Enhanced due diligence is required for higher-risk customers or transactions, and politically exposed persons (PEPs). However, the definition of PEPs (sect. 3, AMLA) does not include domestic PEPs, family members or close associates. FIU of the United Republic of Tanzania has developed Guidelines for the Verification of Customers Identities (2009).

AMLA establishes administrative sanctions for violations of KYC/CDD requirements, and criminal sanctions in appropriate cases. BOT, during onsite examinations, verifies that banks and financial institutions have appropriate KYC and CDD policies and procedures. Only a limited number of on-site inspections have been carried out and few administrative sanctions imposed.

Record-keeping requirements and the obligation to report STRs are established.

The licensing provisions under the Banking and Financial Institutions Act prevent the establishment of "shell banks". Banks and financial institutions are prohibited from entering into, or continuing, correspondent banking relationships with shell banks and to guard against establishing relations with respondent foreign banks or financial institutions that permit their accounts to be used by shell banks (2012 AML Regulation).

Various public officials shall declare income and assets. Under PLCEA, public leaders shall declare in writing their property, assets and liabilities, and those of their spouse or children, subject to certain exceptions. Members of the public can inspect the information upon lodging a good-faith complaint with the Ethics Commissioner and the payment of a fee. In addition, public officials may be required by PCCB to declare their assets and those held by their agents, pursuant to PCCA. Members of parliament shall also submit financial disclosure statements of property held by them and their spouses to the Speaker, which are transmitted to the Ethics Commissioner (art. 70, Constitution). There are also provisions regarding property declarations by the Speaker of the National Assembly (art. 84(5), Constitution). Challenges in the interests and assets declaration regime include the absence of a comprehensive verification and e-filing system and capacity constraints in ES. A reporting obligation for foreign financial accounts is not established.

The FIU is established based on AMLA and AML Regulations 2007.

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

There are no legal provisions that explicitly permit a foreign State to initiate legal proceedings in Tanzanian courts to establish title to or ownership of property. The Economic and Organized Crime Control Act and CPA permit the courts to order those who have committed corruption-related offences to pay compensation or damages.

MACMA and POCA allow Tanzanian authorities to enforce a foreign confiscation order, through an application by NPS to the High Court. The provisions apply to serious offences and foreign serious offences, which include corruption offences (sect. 3, POCA; sects. 32 and 3, MACMA.).

The system of asset recovery in the United Republic of Tanzania is conviction-based. However, POCA provides in some domestic cases for non-conviction-based forfeiture, such as when a person cannot be found, has absconded or died. For purposes of mutual legal assistance, a conviction is not required to enforce a foreign forfeiture or pecuniary penalty order, provided the NPS is satisfied that the order was properly made and is not subject to appeal in the foreign country (sect. 32(1)(b), MACMA).

The framework for the preservation, management and administration of seized assets pending confiscation is presently under review, and a bill to amend POCA has been drafted. While POCA gives investigating agencies some responsibility to manage seized property, there are limited budgets for asset management and difficulties in appointing trustees, due to the permissive nature of POCA (sect. 38).

The United Republic of Tanzania may refuse to execute foreign requests if their execution would impose an excessive burden on its resources and may lift provisional measures if the required documents to effect the confiscation are not provided.

Legal amendments to strengthen the oversight by NPS as central authority over the mutual legal assistance process have been initiated.

Return and disposal of assets (art. 57)

Property subject to a foreign forfeiture order shall be disposed of or otherwise dealt with in accordance with the direction of the NPS (sect. 18, POCA). The United Republic of Tanzania may share confiscated property based on the request of a foreign State, if a relevant agreement is in place (sect. 32A, MACMA). While it is the general policy of the United Republic of Tanzania to return proceeds to requesting countries where there is no agreement, this policy is not reflected in the applicable legislation.

The United Republic of Tanzania assumes the ordinary costs of executing requests, unless otherwise agreed with a requesting State, while expenses of a substantial or extraordinary nature will be negotiated in advance (sect. 9C, MACMA).

The rights of bona fide third parties are protected under the PCCA and POCA.

3.2 Successes and good practices

- *The establishment and operation of the Asset Tracing and Recovery Unit (ATRU) in PCCB and the Asset Forfeiture and Recovery Section (AFRS) in NPS.*

3.3 Challenges in implementation

It is recommended that the United Republic of Tanzania:

- *To ensure the widest measure of cooperation and assistance to all States parties, consider amending MACMA to extend its application beyond designated countries with which reciprocal arrangements for mutual legal assistance have been made. Furthermore, ensure the full implementation of the Convention's obligations under chapter V in respect of Zanzibar (art. 51).*
- *Amend the definition of PEPs in AMLA to include domestic PEPs, family members and close associates. Also, strengthen the capacity for on-site inspections of supervised entities, ensure that appropriate administrative and criminal measures are issued for violations of anti-money-laundering requirements, and ensure regular monitoring and follow-up on the results of the remedial action undertaken by supervised entities (art. 52, para. 1).*
- *Adopt relevant measures in accordance with article 52, paragraph 2 (b).*
- *Undertake a comprehensive review of the asset and income disclosure system, with a view to streamlining and modernizing it in line with international best practices, including electronic filing and enhanced monitoring and verification. Furthermore, consider adopting a code of ethics and disclosure system for staff not covered under PLCEA (art. 52, para. 5).*
- *Consider adopting measures requiring public officials to report foreign financial accounts and to maintain appropriate records related to such accounts (art. 52, para. 6).*
- *Specify in the law recovery mechanisms for injured parties to establish title or ownership of property and claim compensation in domestic proceedings (art. 53 (a) and (c)).*
- *Consider expanding the grounds on which confiscation may be obtained in the absence of a conviction under the national legislation (POCA) (art. 54, para. 1 (c)).*
- *Strengthen measures to preserve property for confiscation, including by strengthening the institutional set-up, coupled with the necessary legal basis and resources, and ensure appropriate coordination among implementing agencies, taking into account international experience (art. 54, para. 2 (c)).*
- *Continue efforts strengthening oversight by NPS as central authority over the mutual legal assistance process, including by adopting guidelines, procedures or practice directions on mutual legal assistance (art. 55, para. 8).*
- *Amend legislation to adopt measures providing for the return of proceeds to requesting States in accordance with article 57, paragraph 3.*

3.4 Technical assistance needs identified to improve implementation of the Convention

- *Legislative assistance (art. 54, para. 2 (c))*
- *Policymaking (art. 58)*
- *Capacity-building (arts. 53–57)*

For details, please refer to the annex to the full report.

IV. Implementation of the Convention

A. Ratification of the Convention

Please provide information on the ratification/acceptance/approval/accession process of the United Nations Convention against Corruption in your country (date of ratification/acceptance/approval of/accession to the Convention, date of entry into force of the Convention in your country, procedure to be followed for ratification/acceptance/approval of/accession to international conventions etc.).

Tanzania signed the Convention on 9 December 2003 (C.N.1398.2003.TREATIES) and ratified it on 25 May 2005 (C.N.1398.2003.TREATIES-13). To enhance implementation of the Convention, Tanzania enacted the Prevention and Combating of Corruption Act on 16 April 2007, which was published in the official Gazette on 22 June 2007.

The implementation by Tanzania of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 18 February 2014 (CAC/COSP/IRG/I/3/1/Add.9).

B. Legal system of Tanzania

Please briefly describe the legal and institutional system of your country.

Tanzania's legal system is based on the English common law system. The first source of law is the 1977 Constitution, and other sources of law include the statutes or Acts of Parliament, case law, received laws, international conventions, as well as customary law.

The implementing legislation for the purpose of anti-corruption efforts includes:

- Prevention and Combating of Corruption Act 2007 (hereinafter also referred to as the PCCA)
- Penal Code
- Criminal Procedure Act
- Anti-Money Laundering Act
- Whistle-blowers and Witness Protection Act
- Proceeds of Crime Act (POCA)
- Constitution of the URT
- Public Leaders Code of Ethics Act
- Public Service Act

- Economic and Organized Crime Control Act (EOCCA)
- Public Procurement Act
- Public Audit Act
- Banking and Financial Institutions Act
- Mutual Assistance in Criminal Matters Act (MACMA)
- Transfer of Prisoners Act
- Evidence Act
- Election Expenses Act
- Parole Board Act
- Prisons Act.

Please provide a hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by your country that you wish to share as good practices.

None

Please provide the relevant information regarding the preparation of your responses to the self-assessment checklist.

First, the focal point of Tanzania attended a training organized by UNODC and the Russian General Prosecutor's Office in April 2017. The knowledge provided during the training was utilized in the preparation of the responses to the self-assessment checklist.

Second, the report of the above training was handed to the Director General of PCCB and was further communicated to other relevant offices. Upon request from the Director General of PCCB to initiate a workshop with various offices responsible for the second review cycle, letters were written to 14 offices (mentioned above) while attaching the draft self-assessment checklist for ease of references. Among other things, the heads of offices were requested to appoint focal persons for the second cycle review, and the same had a success of about 75%.

Furthermore, on the 5th September 2017, PCCB had a workshop with the focal person where among other things general knowledge was given to focal points and to this end, each focal person was asked to clarify their responses to the draft self-assessment. All the responses were communicated through email and letters.

Lastly, after reading various laws and regulations, the task of the focal point of the UNCAC review was to organise the answers received from stakeholders in a self-assessment checklist. At the PCCB, it was done in cooperation with Ms. Tunu Mleli, International Cooperation and Protocol Officer who ably communicated with all the offices consulted and further preparing the workshop mentioned above.

Please describe three practices that you consider to be good practices in the

implementation of the chapters of the Convention that are under review.

1. Regarding chapter II on dissemination of knowledge to civil society, the following good practices are recommended:

- The use of Longa Nasi (Talk to Us) Campaign. Through this program, the public (society) is given knowledge on the fight against corruption and encourage them to report corruption incidences to the PCCB. The said Campaign was opened on 24th May 2016. The PCCB has established Call Centre at the PCCB Headquarter that works day and night to receive corruption reports from the public and respond to the public inquires on corruption matters. As a result, of this campaign and the improvement of reporting system: corruption reporting has increased from 4675 the year 2014/2015 to 7304 in 2015/2016.
- Involving the youth in ethics clubs that have been organized by the President's Office, Ethics Secretariat for primary and secondary schools, and involving the youth in court clubs organized by the judiciary for primary and secondary schools, where among other things training on ethics and corruption is part of the clubs' missions.
- Furthermore, Tanzania launched an electronic procurement system in June 2016. The current report shows that through 28 February 2018, a total number of 100 procuring entities and 700 suppliers were registered in the system.

2. Regarding chapter V on Asset Recovery, two good practices are considered:

- a) Asset Recovery: The interest of the government of Tanzania is to recover assets obtained through corruption. Currently the PCCB is reviewing the Prevention and Combating of Corruption Act (PCCA), No. 11/2007 so as, among other things to accommodate:
- Corruption in sports.
 - Corruption in election.
 - Introduction of the PCCB Academy for training of staff.
 - To set periodic review of anti-corruption laws.

However, the time of completion cannot be guaranteed, as the same is still under discussion by internal stakeholders.

Furthermore, the establishment and operation of the Asset Tracing and Recovery Unit (ATRU) in PCCB and the Asset Forfeiture and Recovery Section (AFRS) in the National Prosecution Services (NPS) are considered good practices. Subsequent to the review, ATRU was moved to the Directorate of Legal Services and the AFRS was renamed the Asset Forfeiture Transnational and Specialized Crimes Division.

- b) The inclusion of provisions that lead to the confiscation of assets in POCA or anti-corruption laws where the accused has either absconded or died. By way of example, in one case of *Attorney General vs. Pastory Francis Mayila*, Criminal Application No. 17 of 2016, Application for Forfeiture Orders, where the accused absconded

before trial, his properties were confiscated. A copy of the judgment was provided to the reviewers.

C. Implementation of selected articles

Tanzania has requested technical assistance to more fully implement the requirements of chapters II and V of the Convention. For details, please refer to the annex to this report.

Chapter II. Preventive measures

As a general matter, the reviewers note that key legislation and measures to give effect to the requirements of chapter II of the Convention are applicable only in Mainland Tanzania. This is the case, in particular, in respect of the requirements of articles 6(1), 8(4), 10(a) and 12(2) of the Convention, as noted below. No information on the implementation of the corresponding provisions in Zanzibar was available.

Accordingly, it is recommended that Tanzania take steps to ensure the full implementation of the Convention's obligations under chapter II in respect of Zanzibar.

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has developed and implemented a National Anti-Corruption Strategy and Action Plan (NACSAP) in continuation of the government's efforts to provide a policy

framework to address corruption and governance issues. The NACSAP is being implemented in three phases since 2001-2005 (Phase I), 2006-2011 (Phase II) and 2016-2022 (Phase III).

This strategy focuses on building systems of integrity, accountability and transparency in public and non-state actors. It generally aims to also improve service delivery at the level of Ministries, Departments, and Agencies (MDAs) and within Local Government Authorities (LGAs).

NACSAP focuses on the following:

- Rule of Law; to strive and restore confidence in the judiciary and law enforcement agencies
- Financial discipline; increase in revenue collection and reduction of mismanagement of resource
- Procurement; ensure transparency and compliance of procurement procedures
- Public Awareness; enhance public awareness on the issues of anti- corruption and good governance
- Public Service: to instil the sense of responsibility and accountability to public officers
- Media; use of media in reporting and exposing the culprits.

It also focuses on empowering non-State actors (private sector, civil society organizations, faith based organizations and the media) to participate in the fight against corruption. Currently, the implementation of NACSAP III has been designed to sustain achievements and respond to challenges arising from the previous interventions intended to build a society, institutions and systems including a more robust monitoring and evaluation (M&E) which would support the policy of zero tolerance to corruption.

The focus is on the Zero Tolerance Policy against corruption; promoting effective governance; pro-active and pro-business government; corporate governance and making effective and profitable public investment in state owned enterprises. NACSAP III sets strategic activities and targets to prevent and combat corruption in public procurement, revenue collection, utilization of natural resources, minerals, oil and gas and administration of justice.

The specific objectives will be achieved through:

- Focus on and prioritize sectors and areas prone to corruption;
- Strengthen enforcement, sanctions, supervision and incentives for fighting corruption;
- Strengthen citizens' participation to enhance the demand side of accountability;
- Strengthen public awareness on ethics and fight against corruption through Information, Education and Communication (IEC) measures
- Strengthen Partnership and Synergies with Civil Society Organizations, the Government, Parliament, Judiciary, Political Parties, Media, Development Partners and the Private Sector.
- Strengthen the Administration and Dispensation of Justice Systems.

- Build and/or strengthen capacity of Watchdog and Oversight institutions; Integrity Committees and Coordinating Bodies in MDAs, Regional Secretariats (RSs), LGAs, Parliament, Judiciary and Non State Actors.
- Promote the Use of Technology (ICT) in Service Delivery;
- Promote Transparency and Accountability in Public and Private Undertakings;
- Incorporate Ethics and Anti-Corruption Measures in Primary Schools, Secondary Schools, Tertiary and Higher Learning Institutions including out of School peer learning Settings;
- Strengthen M&E coordination and collaboration across the country

The following supplemental information is provided from the text of NACSAP III:

In terms of institutional arrangements and responsibilities (i.e., the scope of the strategy and who it applies to), as well as coordination and oversight, NACSAP III states in chapter 4 that

“The fight against corruption requires effective participation and involvement of different stakeholders, both State and non-State actors under the leadership of the Chief Secretary¹ as the overall in-charge of implementing NACSAP III. All stakeholders should give high priority to the anti-corruption initiatives and are urged to create an enabling environment in the implementation of NACSAP III. It is expected that each stakeholder will take a leading role in identifying, prioritizing and implementing anti-corruption measures that are geared to prevent and combat corruption and other unethical practices. Thus, the fight against corruption becomes a permanent agenda at all levels of management from the village to the national level. To facilitate the implementation of NACSAP III, coordination arrangements will be established as national, regional, district, ward, village and institutional levels. At the national level, there are two National NACSAP Coordination Committees: (i) the National Steering Committee chaired by the Chief Secretary which comprises of State and non-State actors and (ii) National Government Technical Consultative Committee chaired by the Permanent Secretary State House which comprises of national oversight institutions, President’s Office Regional Administration and Local Government (PO-RALG), and other co-opted members. The Secretariat to the Committees is the Good Governance and Reforms Department (GGR).” The roles and functions of both Committees are clearly spelled out in the next sections, together with institutional arrangements at the regional, district, ward, village and institutional levels.

It further provides, “State actors for the implementation of NACSAP III includes MDAs, RS, LGAs, National Watchdog and oversight and other public institutions.” Their roles and functions are clearly spelled out. For non-State actors NACSAP III specifies that “These include development partners, CSOs, private sector, political parties and the media.” Their roles and functions are clearly spelled out.

In terms of government coordination, oversight and accountability, the NACSAP III M&E management framework (Section 5.5.) provides:

“At the national level, GGR retains its role of NACSAP overall implementation coordination being executed by various players like PCCB, Ethics Secretariat and

¹ As the Head of the Public Service and Secretary to the Cabinet.

Commission for Human Rights and Good Governance (CHRAGG), among others, in the country. With respect to monitoring and evaluation, GGR will work in tandem with Integrity Committees in public institutions, regional and district consultative committees while making consultations with non-State actors to be part of the whole process. The GGR will use the M&E information to execute policy recommendations and strengthen public institutions that will not be doing well.

Performance tracking will be guided by the NACSAP institutional action plan and results frame with clear indicators or milestones. Hence, at national level the Chief Secretary through the GGR coordinates the M&E functions while at institutional level (MDAs, RS, LGAs and non-State actors) this responsibility rests with Heads of institutions through Integrity Committees and Management Committees.”

Regarding monitoring and evaluation, as noted in Tanzania’s response, NACSAP III has been designed to sustain achievements and respond to challenges arising from the previous NACSAP, including a more robust M&E. Thus chapter 5 of NACSAP III sets out a comprehensive monitoring and evaluation framework. It is stated that

“Monitoring and Evaluation of NACSAP III will be done through Monitoring and Evaluation Plans to be developed to enable an institutionalized M&E system that will ensure effective steering of the Strategy’s implementation and assessing its outputs and impacts. NACSAP III will be monitored at various levels by the National Steering Committee, National Technical Consultative Committee, GGR, Regional and District NACSAP Consultative Coordination Committees, Institutional Integrity Committees and Management Committees. Thus, every implementing agency will be required to prepare and implement M&E Plan.”

The M&E framework will include a results framework and indicators (Table 1, page 59). The M&E Plan will comprise of 40 indicators which will be tracked quarterly and reported on an annual basis, in addition to an outcome/impact monitoring report.

The following reporting structure is established (Section 5.4.2). “Implementing institutions will serve as main sources of data and will be required to submit the same to GGR on a quarterly basis to facilitate the reporting process. At national level, GGR will prepare quarterly progress reports for NACSAP III, focusing more on implementation aspects. They will report on routine data about the coverage of input and output indicators in the results framework. Its purpose is to inform stakeholders where and what kind of anti-corruption activities were delivered in the past three months. The data in the report will assist stakeholders to identify gaps and thus better target available resources to more productive and impact oriented areas.”

NACSAP III annual progress reports are to provide a comprehensive overview of the progress and outcomes of the collective efforts for the implementation of the Strategy. The reports are to be broad based and cover key results areas defined in the M&E Plan. They are based on reporting on all core NACSAP III indicators and other relevant information provided by the M&E system.

An outcome/impact monitoring report will also be prepared during the mid or end of term period. The outcome/impacts reports will be compiled by GGR and approved by the Chief Secretary for a wider dissemination.

For all reports, key information for preparation will be available in the M&E database to be designed for the respective NACSAP implementation. It is planned that the database will be available online via the NACSAP website, once it is established. This would ensure that the public with Internet access will have instant access to information about NACSAP III activities and other aspects. GGR will also ensure that its M&E data are exported for inclusion in other relevant databases.

The M&E reports will be submitted to the National Steering Committee and National Government Technical Consultative Committee for scrutiny, sharing and deliberations.

To enhance participation, GGR will hold an annual stakeholders forum to disseminate the mid-year and annual M&E reports.

The Guidelines for implementation of NACSAP III are spelled out in chapter 6. This includes the requirement for public institutions (MDAs, RS and LGAs) to develop respective action plans and/or anti-corruption chapters to implement NACSAP III. The private sector and CSOs are expected and encouraged to develop and implement the same in their respective areas of jurisdiction. In so doing, reference should be made to the NACSAP III strategies (pages 68-69), institutional core functions/mandates and provided formats (Table 2).

Regarding impact, the achievements and challenges of NACSAP I and II are spelled out on pages 9-10 and 19-20, respectively. Among the listed challenges for NACSAP II are:

- Lack of continuity, functionality and sustainability of the Integrity Committees,
- Non-compliance with laws, regulations and procedures as a result of lenient sanctions, weak supervision and incentives,
- Inadequate funding
- Inadequate commitment and stakeholders' ownership on NACSAP implementation
- Lack of NACSAP coordination framework at regional and district level,
- Difficulties in soliciting evidence from corruption cases, especially those involving cross-border investigations
- Inadequate information sharing with non-State actors engaged in good governance and anti-corruption
- Ineffective implementation of NACSAP II by oversight institutions
- Inadequate monitoring and evaluation systems.

Accordingly, the main objectives of NACSAP III are to strengthen coordination and M&E, improve administration of justice, devise strong ethics promotion and awareness strategies, enhance stakeholders' partnership and participation, strengthen enforcement instruments and sanctions, supervision and incentives in the fight against corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

NACSAP implementation complements the country's reform programs such as: Public

Service Reform Program (PSRP); Public Finance Management Reform Program (PFMRP); Financial Sector Reform Program (FSRP); Legal Sector Reform Program (LSRP); and Local Government Reform Program (LGRP). Others were Business Environment Strengthening for Tanzania (BEST) the National Strategy for Growth and Reduction of Poverty (NSGRP 2005 - 2010).

In the same way NACSAP enabled the enactment of the Anti-Money Laundering Act and the subsequent creation of the Financial Intelligence Unit (FIU), review of the Anti-Corruption Act, Public Leadership Code of Ethics Act and Public Procurement Act. Also, the ratification and domestication of the SADC Anti-Corruption Protocol and the United Nations Convention against Corruption came along with the establishment of oversight institutions such as the Commission for Human Rights and Good Governance and the Public Procurement Regulatory Act, Public Audit Act No. 11 of 2008, e-Government Agency (2012) and the use of ICT and Public Procurement Regulatory Authority.

(b) Observations on the implementation of the article

Tanzania has developed and implemented a National Anti-Corruption Strategy and Action Plan (NACSAP) in continuation of the government's efforts to provide a policy framework to address corruption and governance issues.

This strategy focuses on building systems of integrity, accountability and transparency in public and private institutions. It generally aims to also improve service delivery at the level of Ministries, Departments, and Agencies (MDAs) and within Local Government Authorities. NACSAP implementation compliments the country's reform programmes such as: Public Service Reform Program (PSRP); Public Finance Management Reform Program (PFMRP); Financial Sector Reform Program (FSRP); Legal Sector Reform Program (LSRP); and Local Government Reform Program (LGRP). The NACSAP is being implemented in three phases since 2001-2005 (Phase I), 2006-2011 (Phase II) and 2016-2021 (Phase III).

During the country visit, Tanzania updated the reviewers about some of the tangible impacts of NACSAP III had had so far. Since the implementation phase of NACSAP III began in July 2017, MDAs have established integrity committees and developed preventive action plans. It was also explained that the GGCU was renamed as Good Governance and Reform Department (GGR).

PCCB continues to work with other stakeholders to improve its monitoring and evaluation mechanism.

Views from all sectors of society, including private, religious and media representatives, were collected and considered in the development of NACSAP III. PCCB raises awareness of NACSAP through seminars, tv and radio, website, etc. PCCB reports on implementation are currently internal documents but may be released to the public in the future.

At the same, Tanzania identified several areas that needed further work and requested technical assistance to ensure full implementation of the provision. Limited funding availability prevents integrity committees from effectively functioning from village to MDA levels.

In light of the above, it is recommended that Tanzania continue efforts to fully

implement NACSAP III in light of lessons learned and international good practices, taking into account the technical assistance requested (see Annex to this report). It is further recommended that Tanzania establish integrity committees at all levels of Government and ensure their effectiveness in corruption prevention.

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

In order to create long lasting corruption prevention in public offices, NACSAP facilitated the establishment of Integrity Committees in all government institutions charged to prevent corruption and maladministration in their respective offices.

For further information on corruption prevention activities, see paragraph 1 of article 6 below.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

The Prevention and Combating of Corruption Bureau (PCCB) of Tanzania has initiated numerous anti-corruption measures and carries out various awareness-raising activities, including training sessions for public officials, knowledge dissemination and enhancing public awareness on the issues of anti-corruption and good governance. Tanzania has also developed codes of conduct that promote honesty and integrity among public officers and for the community at large. There exists a mechanism designed to manage conflicts of interest among public leaders, political parties and candidates for elected office.

During the country visit, Tanzania confirmed that all MDAs had established Integrity Committees (IC). However, limited funding prevents integrity committees from effectively functioning from village to MDA levels. PCCB conducts trainings for ICs to increase their awareness of various forms of corruption by, inter alia, sharing information on corruption and relevant statistics, and to ensure that the action plans adopted in MDAs are sound. ICs also exchange information and statistics with PCCB.

Although ICs shall primarily educate and monitor corruption levels, they also have a crucial role in prevention as they may recommend preventive and disciplinary measures. However, if they become aware of facts that constitute corruption, they must report it to PCCB. PCCB noted that there was a rise in the number of corruption reports received from ICs. This was considered a positive trend, as it indicated the effectiveness of the ICs and their activities. For the period commencing from 1 January 2017 to 31 May 2018 at least 9 meetings were held and a total of 4 reports on integrity issues were reported to PCCB.

To address one of the challenges reported for NACSAP II regarding the lack of continuity, functionality and sustainability in ICs, Tanzania has introduced some measures such as requiring officials who were responsible for the strategy to take necessary steps to ensure continuity when leaving office.

Accordingly, Tanzania is in compliance with its obligations under this provision of the Convention.

(c) Successes and good practices

The existence of Integrity Committees in central government institutions is considered a good practice.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Although Tanzania's anti-corruption statutes do not contain provisions providing for the periodic evaluation of legal instruments and administrative measures, the anti-corruption laws have undergone various evaluations and amendments. For instance, while it was not the case in 2007 when the PCCA was enacted, currently all offences under the PCCA, save for section 15, are made to be economic crimes under the Miscellaneous Amendment Act No 3 of 2016. Also section 4(2) of the Law Revision Act gives the mandate to the Attorney General to make revisions of laws.

Currently Tanzania is reviewing the Prevention and Combating of Corruption Act No. 11/2007 (PCCA) so as, among other things to accommodate

- Corruption in sports.
- Corruption in elections.
- Introduction of the PCCB Academy- for training of staff, and
- To set periodic review of anti-corruption laws.

However, the time of completion cannot be guaranteed, since the same is still under discussion by internal stakeholders.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

Although Tanzania's anti-corruption statutes do not contain provisions on the periodic evaluation of legal instruments and administrative measures, the country evaluates its laws whenever required. It has undertaken evaluations of its legal system and is currently also revising the PCCA. The proposed amendments to the PCCA include its revision every five years.

In this context it is noted that Tanzania's Law Reform Commission, established under the Law Reform Commission of Tanzania Act Cap 171, is charged with several statutory responsibilities. The Commission reviews all the laws of Tanzania with a view to their systematic development and reform. The Commission can review any law or branch of law and recommend ways and measures necessary in which that law or branch of the law of Tanzania can be improved or made simpler and be brought up date in line with the current circumstances of Tanzania. In addition, the Law Reform Commission revises and simplifies complex laws for public consumption, approximates and harmonizes regional and international instruments signed and ratified by Tanzania and provide legal assistance to MDAs on reviewing their laws. During the country visit, Tanzania clarified that they consider that a needs-based approach to revising laws and administrative measures was more useful than a structured approach to the periodic review and revision of laws for the country.

Based on the above, Tanzania has partially implemented the provision under review. To ensure that the provision is fully implemented, **it is recommended that Tanzania consider a more structured approach to the periodic review and revision of laws and administrative measures aimed at the prevention and fight against corruption.**

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this

article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has implemented the provision under review by enacting the PCCA No. 11/2007. Section 7 (d) of the PCCA mandatorily requires the PCCB to cooperate with international institutions, agencies and organizations in the fight against corruption.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Tanzania is a member of the following international and regional organizations:

- International Association of Anti-Corruption Authorities (IAACA).
- The African Union Advisory Board on Corruption, which is an autonomous organ, established within the African Union (AU), in terms of Article 22 of the African Union Convention on Preventing and Combating Corruption.
- The Commonwealth Association of Anti-Corruption Agencies, which is a voluntary association of 53 independent and equal sovereign states. The Commonwealth Secretariat provides guidance on policymaking, technical assistance and advisory services to Commonwealth member countries.
- SADC Anti-Corruption Committee (SACC), which was officially formed in Kinshasa, DRC November 2015 after SAFAC handover.
- The East African Association of Anti-Corruption Authorities (EAAACA).
- International Corruption Hunters' Network.

(b) Observations on the implementation of the article

Tanzania's PCCA No. 11/2007 has established the mechanism for cooperation with relevant international and regional organizations in the prevention of and fight against corruption. PCCB is thus mandated to cooperate with international institutions, agencies and organizations in the fight against corruption. Moreover, Tanzania participates in a number of international and regional anti-corruption initiatives, projects and programmes.

Based on these facts, Tanzania is in compliance with its obligations under this provision of the Convention.

(c) Challenges, where applicable

Challenges include a lack of resources (funds) to carry out the policies mentioned herein

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The United Republic of Tanzania has established the Prevention and Combating of Corruption Bureau (PCCB) under section 5 (1) of the Prevention and Combating of Corruption Act No.11/2007. This body has all mandates, including disseminating knowledge under section 7 (b) of the Prevention and Combating of Corruption Act No.11/2007. In order to disseminate knowledge to civil society, the PCCB has established the Directorate of Community Education (DCE). The Mission of the DCE is to involve the community in the fight against corruption. Through the DCE PCCB employs various mechanisms to impart anti-corruption education to civil society in a bid to foster public participation in fighting corruption. For the year 2016/2017 various stakeholders have shown interest to support the fight against corruption, including artists.

Tanzania's public awareness programs aim at the following:

- Educate the public on anti-corruption and its effects,
- Inform the public on government efforts to control corruption,
- Changing the mind-set or perception of citizens or stakeholders from being audiences to action takers (to be proactive rather than reactive),
- Informing the public on their responsibility to report to PCCB when they see, hear or believe corruption incidences are likely to occur,
- Inform the public on the importance of testifying in court against those accused of

corruption.

- Remind the public of Constitutional responsibilities on their involvement in the fight against corruption.

Methods used to increase and disseminate knowledge about prevention of corruption include:

- Seminars
- Public meetings
- Public talks
- Involving Youth in the fight against corruption through Anti-Corruption Clubs
- Strengthening Anti-Corruption Clubs
- News articles writing
- Exhibitions
- Radio programs
- TV programs
- CSR - Corporate Social Responsibilities

Stakeholders reached in the awareness programs

- Public sector
- Private sector
- Youths
 - Youths at school and college
 - Youths out of school

Public awareness campaigns or communication actions implemented

- Usage of Inflatable screen and moving van
- Longa Nasi (Talk to us) campaign, “Awake, love your country to stop corruption”(Amkeni, Penda nchi yako kataa Rushwa)
- Corruption education by involving artists
- PCCB Toll free number 113 that can be used 24/7 and has been expanded to all mobile subscribers.
- Encouragement of using library services and facilities to enhance information.

The Library Section of the DCE has the duty to build capacity and provide various library services to staff and outsiders according to their needs. Among the activities that the

Library Section accomplished during the year are the following:

- 3,765 staff regularly attended the library to seek news, publications and other references with an average of 15 staff per day,
- 566 books were improved in the PCCB Library control system
- 3,013 reports on corruption which occur in 19 daily newspapers were analysed for further investigation.
- 384 copies of the Government Gazette for use by the Head Office and regional libraries were acquired.
- Copies of various Acts, regulations and publications were sent through emails to regional and district libraries.
- PCCB Library Control System have been inspected and taught to the regional librarian of Njombe, Iringa, Mbeya, Mtwara na Lindi.

Use of Publications and Promotion Materials

- Wall calendars
- Diaries
- Notebooks
- Newsletters
- Anti-Corruption messages by using posters
- Brochures
- Stickers
- T-shirts and caps

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Tanzania provided the following statistics.

Table 1: Anti-corruption club statistics May 2007 – June 2017

S/n	Category	Anti-Corruption club	Members
1.	Primary school (16,689)	3,780	284,465
2.	Secondary school (4,606)	4,233	290,572
3.	Higher learning institutions	114	11,913
4.	Out of school	10	4606
Total		8,137	591,556

Table 2: Implemented targets Headquarters 2016/2017

No.	Activity	Targets per year	Implementation	% of implemented targets
1	Publications (type)	5	7	100
	Wall calendar		12,000	
	Diary		100	
	Notebooks		2,000	
	PCCB newsletters		5,000	
	Anti-corruption member certificates		5,590	
	Brochures		1,000	
	T-shirts		30	
2	To prepare video documentaries	8	6	75
3	Radio programs, television programs and newsletter articles.	56	78	100
	Prepare and air radio programs		50	
	Prepare and air television programs		5	
	Featured articles		23	
4	Coordinate and participate in exhibition	3	4	100
5	Prepare adverts	4	0	0
6	Coordinate and participate in educating	5	5	100
Average performance				80

Source: Statistical framework, date 31.7.2017

Table 3: Implementation targets Regions, Districts and special posts 2016/2017

No.	Activities	Annual goals	Implementation		Implementation % vs. annual goals
		Number	Number	Participants	
1.	Seminar to four groups	2,880	3,042	148,521	100
2.	Public talks	1,920	1,986	262,284	100
3.	Anti-corruption club (Opening and strengthening of the antic corruption club)	2,400	2,974	271,700	100
4.	Articles	240	284		100
5.	Exhibitions	120	224	122,390	100
6.	Television and radio programs	58	166		100
	Radio programs		160		

	Television programs		6		
	Total				100

Source: Statistical framework, date 31.7.2017

Appendix No. 3: Exhibitions which we participated in the year 2016/2017

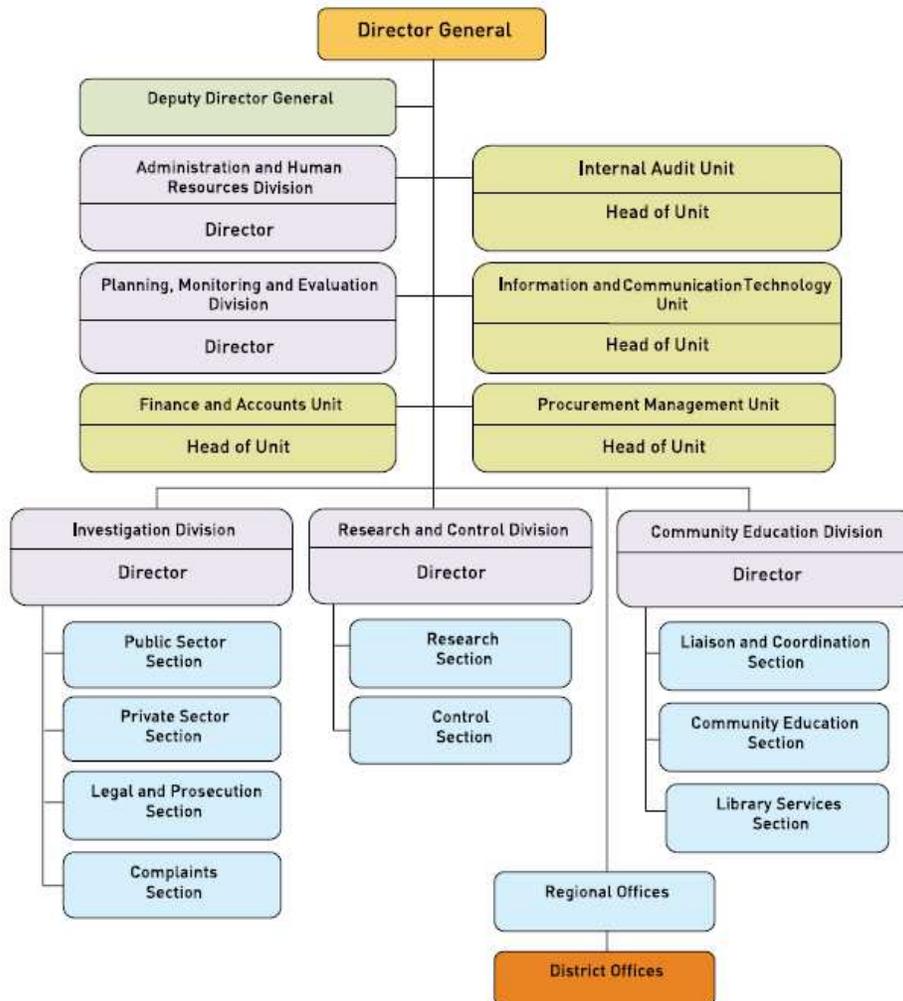
No.	Exhibit	Region
1.	Education week	Mtwara
2.	Siku ya Serikali za Mitaa	Pwani, Tanga, Mbeya
3.	Graduation ceremony – higher learning institutions	Shinyanga, Tabora, Tanga, Pwani,
4.	Uhuru torch	Tabora, Mbeya, Kagera, Kigoma, Katavi, Geita, Mwanza, Arusha, Mara, Kilimanjaro, Manyara, Dodoma, Singida, Shinyanga, Simiyu, Kahama, Rukwa, Njombe, Ruvuma, Iringa, Mtwara, Lindi, Ilala, Kinondoni, Pwani, Temeke, Morogoro
5.	Workers day	Tanga, Manyara, Mara
6.	Mobile office	Kahama, Mtwara, Geita
7.	SAUT Community day	Mwanza
8.	Anti corruption day	Makao Makuu, Lindi, Mwanza, Mtwara, Iringa
9.	Law Day	Ilala, Tabora, Ruvuma, Mara, Shinyanga, Mtwara, Mwanza
10.	Scout Day, Tanzania	Arusha
11.	Women's Day	Morogoro, Lindi, Pwani, Mara
12.	Siku na NaneNane	Morogoro, Pwani, Kagera, Mtwara, Lindi, Simiyu
13.	Sikukuu ya Sabasaba	Kagera
14.	Utalii wa Utamaduni	Mara, Mbeya, Manyara
15.	Wiki ya Nenda kwa Usalama	Kilimanjaro, Singida, Geita, Mbeya, Tanga, Manyara, Mtwara, Kigoma, Temeke
16.	Wiki ya Utumishi kwa Umma	Lindi, Pwani

Structures in place that deal effectively with grievances and complaints from citizens.

PCCB has a call centre which is freely available to the public through the hotline number 113 to submit complaints and ask questions concerning anti-corruption programs. The toll-free number has been expanded to all mobile subscribers. Reports can also be made by email, writing a letter or reporting in person at the nearest PCCB offices, headquarters, regions and districts.

The organizational structure of PCCB is spelled out in its Strategic Plan 2017/2018 to 2021/2022, as follows:

PCCB ORGANIZATION STRUCTURE



(b) Observations on the implementation of the article

Tanzania has established the PCCB, which is mandated to take all necessary measures for the prevention and combating of corruption in the public, parastatal and private sectors (section 7, PCCA). In accordance with its mandate, the PCCB oversees and coordinates the implementation of corruption prevention policies and is responsible for increasing and disseminating knowledge about the prevention of corruption.

During the country visit, Tanzania clarified further that PCCB conducts research into areas vulnerable to corruption and develops communication strategy and outreach based on the target audience.

Out of the 2200 total number of staff at the PCCB, over 130 officers work in its prevention

arm. However, the steadily increasing workload reveals the need for more staff. Also, it is noted that the PCCA applies to Mainland Tanzania only.

At the same time, Tanzania identified several areas in PCCB's prevention work that needed further strengthening and requested technical assistance to ensure full implementation of the provision. PCCB has limited resources, including financial resources, to continue its work on corruption risk assessments, baseline surveys, research and recommendations to public entities on prevention among others. There is also a need for a forensic laboratory and tools to handle modern types of evidence at the PCCB and provide forensic training to other agencies.

In light of the technical assistance requested under this article, Tanzania is encouraged to continue to devote adequate resources towards corruption prevention functions, in accordance with available resources.

(c) Successes and good practices

The creation of the Department of Community Education within the PCCB. This has an impact not only on the dissemination of information but also to make the public an informed and motivated partner in the fight against corruption and to assist the law enforcement wing of PCCB. These practices of PCCB are considered as a good practice to other anti-corruption institutions.

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The following are the measures taken:

The Prevention and Combating of Corruption Bureau (PCCB) is an independent body in the implementation of its powers like investigation as per section 5 (2) of the Prevention and Combating of Corruption Act (PCCA) No.11/2007.

Also, in the fulfilment of its powers, the composition of the Bureau is made clear, and in accordance with Tanzania's domestic legal system, the Bureau is headed by the Director General and assisted by the Deputy Director General who are both appointed by the President in accordance with the provision of section 6 (1) and (2) of the PCCA.

Other staff members are appointed by the Bureau itself.

In regard to budget, the following provisions of the PCCA are relevant.

47. Funds of the Bureau

(1) The funds and resources of the Bureau shall consist of the sums of money as may be appropriated by Parliament and shall be applied for purposes for which the Bureau is established.

(2) The Director-General shall keep proper audited accounts and other records relating to the funds and resources of the Bureau.

48. Estimates

(1) The Director General shall within three months before the end of each financial year, prepare and submit to the Minister for approval, estimates of income and expenditure of the Bureau for the next ensuing financial year.

(2) The report on estimates on income and expenditure shall contain a report of performance of functions of the Bureau for the year ending.

(3) Upon receipt of the report, the Minister shall lay the report before the National Assembly during the Sessions immediately following the date of submission of the report.

With regard to increasing and dissemination of knowledge on prevention issues, an independent Directorate of Community Education within PCCB has been established. However, capacity of the Directorate is a challenge.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

The legal framework of Tanzania clearly states the institutional independence of the PCCB as per section 5(2) of the PCCA. The Director-General and Deputy Director-General are appointed by the President of the Republic (section 6 (2)).

During the country visit, Tanzania clarified that following its first cycle review recommendation to strengthen the independence of the PCCB and to amend the PCCA to specify the removal and specific term of the Director-General and other senior executives, it has proposed a number of changes to the PCCA. One of the proposals relates to establishing a five-year term for the DG and introducing measures to specify the process of removing the DG from office. Such measures include the establishment of a special committee that would consider the removal of the DG and the Deputy DG in case of misconduct on the same procedure as applies to judges, CAG and Director of Public

Prosecutions (NPS).

It was also explained that the PCCB must obtain the approval of the Public Service Management Office to recruit new staff. However, the PCCB retains a wide mandate to freely and independently determine its own recruitment policy and conduct the actual recruitment.

In light of the above, it is recommended that Tanzania continue to implement measures to strengthen the independence of the PCCB. Tanzania is also encouraged to continue to invest in the development, training and capacity-building of skilled personnel to effectively carry out the Bureau's functions.

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Has your country provided the information as prescribed above? If so, please also provide the appropriate reference.

By note verbale dated 22 May 2019, Tanzania notified the United Nations of the name and address of its authority or authorities responsible for corruption prevention, i.e., Tanzania's Prevention and Combating of Corruption Bureau (PCCB) and Zanzibar's Anti-Corruption and Economic Crimes Authority (ZAECA).

(b) Observations on the implementation of the article

The provision is implemented.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

- Tanzania has implemented the provision by enacting various laws including the Public Service (Amendment) Act, 2007; the Written Laws (Misc. Amendment) Act, 2013, Standing Orders for Public Service and Public Service Recruitment Secretariat Regulations (GN No. 25/2016).

Public Service Act 2002

PART I

PRELIMINARY PROVISIONS

"public servant" for the purpose of this Act means a person holding or acting in a public service office;

"public service office" for the purpose of this Act means:

(a) a paid public office in the United Republic charged with the formulation of Government policy and delivery of public services other than

(i) a parliamentary office;

(ii) an office of a member of a council, board, panel, committee or other similar body whether or not corporate, established by or under any written law;

(iii) an office the emoluments of which are payable at an hourly rate, daily rate or term contract;

(iv) an office of a judge or other judicial office;

(v) an office in the police force or prisons service;

- (b) any office declared by or under any other written law to be a public service office;

PART II ADMINISTRATION OF THE PUBLIC SERVICE

Section 4.-

- (1) There shall be the Chief Secretary appointed by the President who shall be the chief executive officer of the Service.
- (2) The Chief Secretary shall be the head of the Public Service and the Secretary to the Cabinet.
- (3) The Chief Secretary shall, as head of the Service, provide leadership, direction and image to the Service and shall:
 - (a) ensure that public servants in the Service are trained, motivated, efficient and effectively performing, and the Service is free of corruption and other unethical tendencies;
 - (b) improve public accountability by promoting focus on result, service quality and customer satisfaction in public Service performance;
 - (c) be responsible for confirmation of public servants appointed by the President;...

Section 6.-

- (1) Every Permanent Secretary, Head of extra-ministerial department, Regional Administrative Secretary and Director of a Local Government Authority shall
 - (a) pursue-
 - (i) results oriented management; and
 - (ii) Open Performance Appraisal System;
 - (b) be the authority in respect of the appointment, confirmation and discipline of public servants other than those appointed by the President.

Section 6A. Promotion and filling of vacant posts

- (1) Where a vacant post occurs in the Service, such post shall be filled by a suitable filling employee in the public services and in the absence of such employee, consideration shall be given to a suitable person outside the Service.
- (2) Without prejudice to subsection (1), for purposes of filling any vacant post in respect of entry point of any scheme of service, the post shall be advertised and interview be conducted to suitable candidate, unless the Chief Secretary direct otherwise.
- (3) Every promotion in the Service shall be made by considering-
 - (a) performance and efficiency to perform and execute the duties by an employee;

- (b) career development and succession plan;
- (c) seniority amongst the employees; and
- (e) the scheme of service.

Section 8- Administration and terms of Service.

(1) Subject to any written law and to the instructions of the President, the administration of the service and the ordering of the terms and conditions of service of public servants is hereby vested in the Chief Secretary.

(2) Subject to any general or specific directions of the Chief Secretary, the Permanent Secretary (Establishment) shall be the principal assistant to the Chief Secretary in relation to the administration of the Service and shall, in addition to the functions under subsection (2) of section 6, be vested with, have the duty and exercise the power to

- (a) after consultation with the Minister, notify the Chief Secretary of vacancies in public service offices in respect of which the President is the appointing authority;
- (b) formulate, promulgate, monitor, evaluate, review and interpret administrative and personnel policies;
- (c) prescribe the code of conduct for public servants;
- (d) constitute and abolish public service offices, except the office of Permanent Secretary;
- (e) coordinate recruitment and appointments of persons from outside the United Republic.

(3) Except where the Chief Secretary directs otherwise, the Permanent Secretary (Establishment) shall

- (a) conduct investigations and studies concerning development and improvement of the efficiency of public servants and shall take appropriate steps to ensure the attainment of public service efficiency;
- (b) carry out a review of annual personal emoluments to ensure that personal emoluments expenditure conforms to budget ceiling;
- (c) coordinate and ensure proper upkeep of personnel information for all public servants; (d) be a change agent in relation to the image, mission, ethics, conduct and role of the Service;
- (e) carry out job evaluation and regrading and determine remunerations of public servants;
- (f) facilitate labour mobility of employees among employers through transfers where-
 - (i) a need arise for; or
 - (ii) it is for public interest so to do, and that consultations with the relevant employers are made;

PART V PROVISIONS RELATING TO RETIREMENT BENEFITS

Section 27.-

(1) Where under any law any person or authority has a discretion Powers of the Chief Secretary in relation to

(a) to decide whether or not any benefits to which this Act applies shall be granted; or pensions and other benefits

(b) to withhold, reduce in amount or suspend any such benefits to which this Act applies that may be granted, those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Chief Secretary concurs in the refusal to grant the benefits or, as the case may be, the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this section applies that may be granted to any public servant is not fixed by law, the amount of the benefits to be granted shall be the greatest amount for which that public servant is eligible, unless the Chief Secretary concurs in the grant of benefits of a smaller amount.

(3) The Chief Secretary shall not concur under subsection (1) or (2) of this section in action taken on the ground that any person who holds or has held office of the Controller and Auditor General has been guilty of misbehaviour unless the person has been removed from that office by reason of that misbehaviour.

(4) The Chief Secretary shall have power to exempt a public servant from fulfilling any condition or requirement for the grant to him of a pension or other terminal benefits.

(5) This section applies to any benefits payable under any law providing for the grant of pensions, compensations, gratuities, or other like allowances to persons in respect of their service as public servants or to the widows, widowers, children, dependants or personal representatives of those persons in respect of that service.

Section 28. Notwithstanding the generality of section 27, the Chief Secretary shall have powers to exempt a public servant from any condition required for grant of pension or other terminal benefits.

- The Public Service Act 2007 and Public Service Recruitment Secretariat Regulations (GN NO. 25/2016) have established the Public Service Recruitment Secretariat (PSRS). This office deals with the recruitment of public officials.

Public Service Act 2007

Section 29

(1) There shall be established by the Minister a Secretariat to be known as the Public Service Recruitment Secretariat which shall be composed of

(a) a Chairman who shall be appointed by the President;

(b) such number of persons not less than five and not more than seven who shall be amongst public servants appointed by the Minister.

(2) The members shall elect a Vice-Chairman from amongst their number.

(3) There shall be a Secretary of the Secretariat to be appointed by the Minister.

(4) The Secretariat shall be responsible for facilitating recruitment of employees to the Service.

(5) For purposes of subsection (4), the Secretariat shall have representatives in every regional headquarter.

(6) In relation to subsection (4), the functions of the Secretariat shall be to

(a) search for various professionals with special skills and prepare a database of such professionals for ease of recruitment;

(b) register graduates and professionals for purposes of ease of reference and filling vacant posts;

(c) advertise vacant posts occurring in the Service;

(d) engage appropriate experts for purposes of conducting interviews;

(e) advise employers on various matters relating to recruitment; and

(f) do any other act or thing which may be or directed by the Minister.

(7) The Secretariat shall make procedures for conduct of its business.

- Applications through the above secretariat are done electronically through Recruitment Portal
- However, for high government posts, appointment is regulated by the Constitution of the United Republic of Tanzania 1977 as amended from time to time.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics availed

(b) Observations on the implementation of the article

The recruitment, hiring, retention, promotion and retirement of civil servants in Tanzania is regulated principally by the Public Service (Amendment) Act, 2007; the Written Laws (Misc. Amendment) Act, 2013, Standing Orders for Public Service and Public Service Recruitment Secretariat Regulations (GN No. 25/2016).

Public advertisement of vacancies and applications takes place electronically through the recruitment portal. This assists Tanzania in establishing a transparent recruitment system.

Tanzania clarified during the country visit that there was no common system for the periodic rotation of public servants in positions considered vulnerable to corruption to other positions in the public service and MDAs may individually establish appropriate mechanisms to address corruption risks.

It was further clarified that all public service positions are advertised on the recruitment portal and applications through the Public Service Recruitment Secretariat (PSRS) are done electronically through the same portal.

The Public Service Remuneration Board regulates the pay of public officials.

Trainings on ethics and anti-corruption are available but mostly provided based on demand side. The President's Office, Public Service Management Good Government (PO-PSMGG) monitors ethics compliance, determines the training needs at least once a year and provide trainings to public entities on Complaints Handling Mechanisms. Ethics trainings can be delivered through ethics and social marketing strategies directed at public servants in the media. However, it was explained that the PO-PSMGG has limited resources to train a wider group of public entities and public servants and requires technical assistance in this regard.

In case the applicant is not satisfied with how the interview was conducted she/he can submit complaints or appeals to the Permanent Secretary (PS) of PO-PSMGG or the Secretary of the President's office Public Services Recruitment Secretariat (PO-PSRS).

Clause 37 (1) of the Public Service Schemes G.N. No. 169 of 2003 establishes the complaint and subsequent appeal procedure where a job applicant is aggrieved with the decision of the recruitment committee. The complaint and appeal is open and the PO-PSRS website elaborates the same. From January 2019 to 28 February 2019, 46 complaints were received by the PO-PSRS and resolved.

Based on the above, Tanzania is partially compliant with the provision of the Convention. **However, in order to fully implement the provision, it is recommended that Tanzania endeavour to establish a more systematic approach to providing ethics and anti-corruption training to relevant officials, including extending the existing trainings to a wider group of public entities and public servants.**

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Domestic laws available for the implementation of the Convention are:

- The United Republic of Tanzania Constitution of 1977 as amended from time to time

- The National Election Act, Chapter 343
- The Local Authorities (Elections) Act, Chapter 292
- Public Leadership Code of Ethics Act, Chapter 398

The above laws provide various measures as follows:

§ Minimum requirements for candidature to nomination for elected public office:

- Article 39 of United Republic of Tanzania Constitution of 1977 requires the Presidential Candidates to be of the age of 40 and above, Article 67 of the United Republic of Tanzania Constitution of 1977 directs the age of 21 and above for Parliamentary candidates while Section 39 (2) (b) of The Local Authorities (Elections) Act, Chapter 292 mentions the age of 21 and above for Ward Council Candidates. The Laws stipulate the Candidates to have ability of reading and writing in either Swahili or English languages and to be Tanzanian citizens (by birth for Presidency).

United Republic of Tanzania Constitution of 1977

Article 39. Qualifications for election of President.

(1) A person shall not be entitled to be elected to hold the office of President of the United Republic save only if –

- (a) he is a citizen of the United Republic by birth in accordance with the citizenship law;
- (b) he has attained the age of forty years;
- (c) he is a member of, and a candidate nominated by, a political party;
- (d) he is qualified to be a Member of Parliament or a Member of the House of Representatives;
- (e) within the period of five years before the General Elections, he has not been convicted by any court for any offence relating to evasion to pay any tax due to the Government.

Article 67. Qualifications for Member of Parliament.

(1) Subject to the provisions contained in this Article, any person shall be qualified for election or appointment as a Member of Parliament if he –

- (a) is a citizen of the United Republic who has attained the age of twenty-one years and who can read and write in Kiswahili or English; and
- (b) is a member and a candidate proposed by a political party.

(2) A person shall not be qualified to be elected or appointed Member of Parliament if -

- (a) such person possesses or voluntarily acquires the citizenship of any other country;
- (b) in accordance with a law applicable in the United Republic it has been formally certified that such person is of unsound mind;

(c) such person has been convicted by any court in the United Republic and sentenced to death or to a term of imprisonment exceeding six months for any offence however styled involving dishonesty;

(d) within a period of five years preceding the date of a general election such person has been convicted and sentenced to imprisonment for an offence involving dishonesty or for contravening the law concerning ethics of public leaders;

(e) without prejudice to a person's right and freedom to hold his own views, to profess a religious faith of his choice, to associate with others and to participate in community work in accordance with the laws of the land, no person shall be qualified to be elected to the office of President of the United Republic if he is not a member of, and a candidate proposed by, a political party;

(f) such person has an interest in any Government contract of any kind in respect of which special restrictions are prescribed by Act of Parliament and he has contravened such restrictions;

(g) such person holds a senior office in the service of the Government of the United Republic, not being an office of which the President may or is required to appoint a Member of Parliament in accordance with this Constitution or a law enacted by Parliament; or

(h) in accordance with a law enacted by Parliament dealing with offences concerning election of any kind such person has been disqualified from registering as a voter or from voting in a Parliamentary election.

(3) A person shall not be competent to contest for election as a constituency Member of Parliament at any general election if he is at the same time contesting for election to the office of President, nor shall he be competent to contest for election as a Member of Parliament at any by-election if he is President.

(4) Parliament may enact a law making provisions disqualifying a person from being elected Member of Parliament representing a constituency if such person holds an office whose functions involve the conduct of, or supervision over, the election of Members of Parliament or the registration of voters for the elections of Members of Parliament; save that such law shall not make provision disqualifying the Speaker from being elected Member of Parliament representing a constituency nor make provisions which cause a person elected Speaker to vacate that office of Speaker or his ordinary seat as Member of Parliament.

(5) Parliament may enact a law for the purpose of making provisions for the disqualification of a person from being elected a Member of Parliament representing a constituency for any period, to be specified by Parliament (save that such period shall not exceed five years) if such person shall be convicted by a court for any type of offences, in connection with the election of Members of Parliament, as specified in that law.

(6) For the purposes of giving opportunity to appeal according to law to any person who has been formally certified to be of unsound mind, or convicted and sentenced to death or imprisonment, or convicted for any offence specified under the law in terms of subarticle (5) of this Article, Parliament may enact law providing that such judgment being appealed against by that person shall have no effect for

the purposes of the provisions of subarticle (2) or (5) of this Article until the expiration of the period to be specified in such legislation.

(7) The following rules shall apply for the purposes of interpreting paragraphs (c), (d) and (e) of subarticle (2) of this Article, that is to say (a) where a person has been awarded two or more prison sentences to run consecutively, such sentences shall be regarded to be separate provided that each of the sentences does not exceed six months; but if the period specified in any of the sentences exceeds six months, such sentences shall be regarded as one sentence; (b) if a person is sentenced to imprisonment where he could otherwise have been sentenced to a fine, or where the sentence of imprisonment is imposed for failure to pay a fine or ordered, such period of imprisonment shall not be taken into account.

(8) In paragraph (f) of subarticle (2) of this Article “Government contract” means any contractual agreement in which one of the parties is the Government of the United Republic, or the Revolutionary Government of Zanzibar or any department of that Government or any officer of the Government who has taken part on behalf of the Government.

(9) [Subarticles (9), (10), (11) and (12) are repealed by Act No.4 of 1992 Art.19 (d)].

(10) For the purposes of interpretation of the qualifications for election contained in the following Articles whenever it is stated in this Constitution that the implementation of any matter requires a person who has the qualification for election, or a person who has not been disqualified from election, then unless the context requires otherwise, it shall be understood that the qualifications concerned or those which enable a person to be elected a Member representing a constituency as provided in subarticle (1) of this Article.

§ Criteria for disqualifying a person from presenting a candidacy:

- Section 36 of The National Election Act, Chapter 343, and section 12 of The Local Authorities (Elections) Act, Chapter 292 provide that a candidate shall be disqualified from election nomination if he/she is under declaration of allegiance to some other country than the United Republic of Tanzania, is under sentence of death, is detained according to laws, and if it is against the requirements of Articles 39 and 67 of The United Republic of Tanzania Constitution of 1977 concerning age, citizenship, literacy, sanity, tax evasion, political party and members sponsorship among others.

National Election Act, Chapter 343

Section 36. Qualification of Candidates for Parliamentary Elections

No person shall be qualified to be elected as a constituency member unless he is qualified to be so elected by and in accordance with the provisions of the Constitution.

Local Authorities Act

12.-(1) A person shall be disqualified for election as an elected member of a district council-

(a) if he is under a declaration of allegiance to some country other than Tanzania;

(b) if under any law in force in Tanzania, he is adjudged or otherwise declared to be of unsound mind;

(c) if

(i) he is under sentence of death imposed on him by any court in Tanzania or a sentence of imprisonment exceeding six months imposed on him by such a court; or

(ii) he is detained under an order made under the Preventive Detention Act, 1962, and has been so detained under that order for a period exceeding six months; or

(iii) he has been deported, in accordance with the provisions of Cap. 38 section 2 of the Deportation Ordinance, under an order made under that section which has been in force for a period exceeding six months, and is still in force;

(d) if he is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Tanzania;

(e) if he is a party to, or partner in a firm, or a director or manager of a company or co-operative society which is a party to any subsisting contract with the Authority to which he seeks election and has not, within one month before the date of the election, published in the Kiswahili and English languages in newspapers circulating within the area of the Authority concerned a notice setting out the nature of such contract and his interest or the interest of any such firm or company or co-operative society, therein;

§ Demonstration of the absence of potential conflicts of interest with the position sought or disclose certain information about relevant interests as a condition of the candidacy:

- Article 67(2) (f) and (g) of The United Republic of Tanzania Constitution of 1977 restricts an elected candidate from having a conflict of interest in any Government contract and if the elected candidate is a senior public servant to resign before holding the elected public office.
- All appointed leaders are as per Public Leadership Code of Ethics Act, Cap. 398 required to declare their assets (see paragraph 5 of article 52 below). The Government Circular No. 2 of 2015 requires all staff to sign an integrity pledge.

§ Compliance with tax obligations:

- Articles 39 (1)(e) and 67 (1)(c) of The United Republic of Tanzania Constitution of 1977 demand disqualification from candidacy for elected office of candidates who are alleged to have evaded tax payments in the past five years.

§ Sanctions from presenting a candidacy for election:

- Requesting the candidate to provide correct or additional information,
- Disqualifying the candidate to be nominated as an elected official if requirements

are not met.

The National Election Act provides circumstances for candidacy sanctions (chapter VI, offences). For example, one candidate was rejected for failing to meet the applicable requirements. This was the Council candidacy in Dodoma Municipal at Ihumwa Ward in January 2017. He was rejected for submitting incorrect and false information.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Save for the above-mentioned case of Council Candidacy in Dodoma Municipal at Ihumwa Ward who was rejected for submitting incorrect and false information, there are no other case statistics available.

(b) Observations on the implementation of the article

Tanzania has established qualification criteria for candidates in Presidential, parliamentary and local elections in the Constitution of 1977 and its amendments, National Election Act, Local Authorities (Elections) Act and PLCEA. It also provides a list of disqualification criteria that include prior conviction for offences involving dishonesty and evasion of tax obligations.

Tanzania is in compliance with its obligations under this provision.

Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The United Republic of Tanzania has adopted various laws to comply with this article: In that regard, Section 12 (1) of the Election Expenses Act No. 6 of 2010 defines a “donation” to constitute “any fund or anything, which can be cashed or converted into

funds.”

The following is the legislation for that purpose;

- The Election Expenses Act (No. 6 of 2010)
- The Election Expenses Regulation, 2010
- The Election Expenses (Maximum Amount of Funds) Order 2015.
- The Political Parties Act (Act No. 5 of 1992)
- The Political Parties (Registration) Regulation, 1992

In order to comply with article 7 (3) of the Convention, the above Acts provide sanctions for violation of any relevant laws, rules and regulations applicable to political candidates or political parties as follows:

1. The Election Expenses Act (EEA)

- S. 18 (5) fines not exceeding two million or imprisonment for a term not exceeding one year or both for the candidate who receives funds as election expenses irrespective of whether has won or lost in the election, fails to prepare verified report and submit it to his/her Political parties.

Section 18.

(1) Any candidate who receives funds as election expenses shall, within sixty days from the polling day, prepare and submit a verified report to the political party which sponsored that candidate in the election. ...

(5) Any candidate who, irrespective of whether has won or lost in the election, fails to prepare a report referred to under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding shillings two million or to imprisonment for a term not exceeding one year or to both.

- S. 20 (1) a political party and every candidate who fail to disclose the amount and sources of fund intended to be used in the election expenses, in the absence of any reasonable explanation, render itself or himself liable for disqualification from participating in the election.
- S. 24 (2): any candidate or party which commits an act amounting to prohibited practice shall be liable for disqualification from participation in the nomination process or election.

2. The Political Parties Act (PPA)

- S. 13 (3): Fine equal to the amount or the value of the resources not disclosed or in relation to which false information was given or to imprisonment for a term not exceeding twelve month or both such fine and imprisonment.

(3) Any official of any party or other person liable to disclose information to the Registrar on behalf of any party relating to the funds or other resources of the party who fails to disclose such information or gives false information in relation to such funds or resources obtained by a party from sources outside the United

Republic, commits an offence and shall be liable on conviction to a fine equal to the amount of the value of the resources not disclosed or in relation to which false information was given or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

- S. 18 (3): Forfeiture of the party's subsequent subvention in case of failure to account for subvention.

(3) Any party which fails or neglects to account for subventions in accordance with this Act, shall forfeit the right to any subsequent subvention due to the party in accordance with this Act.

- S. 19 (1): Deregistration of the Party for violation of any provision of the law.

(1) Subject to subsection (2) the Registrar may cancel the registration of any political party which has contravened any of the provisions of this Act or which has otherwise ceases to qualify for registration under this Act.

- S. 16 (1): Grant of, and party qualification for, subvention

(1) The Government shall, subject to section 17 of this Act, disburse up to not more than two per centum of the annual recurrent budget, less the amount payable in defraying the national debt, in the grant of subventions to political parties in pursuance of the provisions of the Act.

(2) The Government shall, in addition to the subvention referred to in subsection (1), grant an annual subvention to every qualifying party in relation to its local government authority activities which shall be such an amount as the Minister may determine, and which shall be computed on the basis of the number of the members of a party who are members of a district or urban council.

(3) No party shall qualify for the grant to it of a subvention in accordance with this Act unless—

(a) it is a party which is fully registered under this Act;

(b) it has, in the immediately preceding general or local government election, had any of its candidates elected to be a Member of Parliament or member of a local government authority.

3. The Political Parties (Registration) Regulation 1992

- Reg. 16: in the event of non-disclosure of any funds or other resources obtained by the party from outside URT, failure to submit to the Registrar a copy of an audited statement of account and Auditors report on those accounts and failure to submit to the Registrar returns or report relating to the financial of the party, every office bearer of the party concerned shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty thousand Shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Description of any specific requirements aimed at enhancing transparency in the funding of candidatures for elected public office and political parties, such as:

(i) Requirements to prevent conflicts of interest in political donations;

PPA, S. 14 (3) requires the Registrar to publish in the official Gazette an annual report on the audited account of every party.

Section 14

(2) The Registrar, after inspecting any accounts or report submitted pursuant to this section may, for the benefit of the members of the public, publish any matter relation to the funds, resources or property of any party or the use of such funds, resources or property.

(3) The Registrar shall publish in the official Gazette, an annual report on the audited accounts of every party.

(ii) Public disclosure of donations and donors, both private and public;

EEA, S. 11(3) provides that, every Political Party shall disclose to the Registrar information relating to donations received for the purposes of financing election expenses whether obtained from the source outside the country, foreign organisations stationed within the Country or from any person resident in the country who is not a citizen of the URT.

Section 11.-

(3) Every political party shall disclose to the Registrar information relating to donations received pursuant to subsection (1) in a manner stipulated under the Political Parties Act.

EEA, S. 15 (1) provides that all funds provided by an association or group of persons or by any person for nomination process or election campaign of a political party shall be paid to a political party concerned of which it shall disclosed the received fund in the returns respecting election expenses.

Section 15.-

(1) All funds provided by an association or group of persons or by any person for the nomination process or election campaigns of a political party, whether as a gift. loan, advance, deposit or donation, shall be paid to the political party concerned and not otherwise and the political party shall disclose the received funds in the returns respecting election expenses.

(iii) Requirement for candidates and political parties to maintain a separate account for financing of campaigns, including receipt of donations and allocations of expenditures;

EEA, S.11(2) provides that each Political Party shall ensure that all donations received by the party in the form of money to be deposited in the special account opened by the party for election expenses and all election expenses shall be paid from that account.

Section 11.-

(2) Each political party shall ensure that all donations received by the party in the form of money are deposited in the special account opened by the party for election expenses, and all election expenses shall be paid from that account.

PPA, S.18 (2) says that subvention granted to a political party and intended to be used for election purpose shall be accounted for to the Registrar, separately from the accounting for other fund of the party.

Section 18.-

(1) Subventions granted to a party may be spent only on (a) the parliamentary activities of a party; (b) the civil activities of a party; (c) any lawful activity relating to an election in which a party nominates a candidate; (d) any other necessary or reasonable requirement of a party.

(2) Subventions granted to a political party shall be accounted for to the Registrar, separately from the accounting for other funds of the party.

(iv) Transparency of donations by foreign donors or legal entities including those wholly or partially owned by the State;

EEA, S. 11(1) requires a Political Party which received voluntary donations from any individual or organisation in and outside URT if exceeding one million Tsh for individual or two million Tsh for an organisation be disclosed to the Registrar by Board of Trustee of the Party within thirty days of its receipt.

Section 11.-

(1) A political party may, for the purposes of financing election expenses, appeal for and receive voluntary donations from any individual or organisation, in and outside the United Republic, provided that the source of every donation, exceeding shillings one million for an individual donor and shillings two million for an organization shall, within thirty days of its receipt, be disclosed to the Registrar by the Board of Trustees of the political party concerned.

PPA, S. 13(2) all political parties shall disclose to the Registrar information relating to donations received for the purposes of financing election expenses from sources outside the URT whether obtained directly or through sources inside the country, foreign organisations stationed within the country or from any person resident in the country who is not a citizen of the URT.

Section 13.-

(2) Every party shall disclose to the Registrar information relating to any funds or other resources obtained by the party-

(a) from sources outside the United Republic, whether obtained directly or through sources within the United Republic;

(b) from foreign organizations stationed within the United Republic; or

(c) from any person resident in the United Republic who is not a citizen of the United Republic.

(v) Regular financial reporting obligations of donations and expenditures, including pre-and post election, for candidates and political parties;

EEA, S. 9 (1) requires a Candidate to disclose to the District Party Secretary in case of a Candidate for the Post of Member of Parliament and Council and in case of a Presidential candidate to the Party Secretary general, the amount of money he/she has in his/her possession, expect to receive and intends to use as election expenses seven days after nomination of the candidate within the party. (2) Every political party which participates in any election shall within thirty days after the nomination day disclose to the Registrar all funds it intends to use as election expenses.

Section 9.-

(1) A candidate shall be required to disclose at least seven days before the nomination day-

(a) in the case of a Presidential candidate, to the Secretary General;

(b) in the case of a candidate for the post of a Member of Parliament and a member of the Council, to the District Party Secretary, of a political party which sponsored that candidate the amount of funds which the candidate-

(i) has in his possession; and

(ii) expects to receive, intends to use as election expenses.

S. 17 (3) requires the Board of Trustee to of a political party to render to the Registrar true return in the prescribed form showing expenses incurred and the amount apportioned to each candidate.

Section 17.-

(3) The Board of Trustees of a political party shall, within ninety days after the polling day, render, in respect of every candidate sponsored by such party, to the Registrar true returns in the prescribed form showing expenditure incurred in terms of subsection (1) and the amount apportioned to each candidate.

S. 18 (1) (2) requires any candidate who receive fund as election expenses to prepare and submit to the political party, which sponsored that candidate in election, respective party transmit to the Registrar the report contain true return in relation to the Candidate, financial statement of all expenses incurred together with all bills and receipts or some other evidence of payment.

Section 18.-

(1) Any candidate who receives funds as election expenses shall, within sixty days from the polling day, prepare and submit a verified report to the political party which sponsored that candidate in the election.

(2) Every political party which sponsored a candidate shall, within one hundred and eighty days after the submission of the report by the candidate, transmit to the Registrar the report containing true returns in the prescribed form in relation to the candidate, a financial statement of all expenses incurred together with all bills and receipts or some other evidence of payment.

(vi) Recording requirements for information relevant to donations and expenditure, including the identification of individual and corporate donors, special interest or advocacy groups;

EEA, S. 19: it shall be the duty of every candidate, each political party and any organisation which participated in the election activities to keep record of all transaction of election expenses such as receipts and other evidence of payment for the purpose of being audited by the Controller and Auditor General.

Section 19.-

(1) For the purposes of financial accountability under this Act, it shall be the duty of every candidate, and each political party, Non-Governmental Organization, Faith Based Organization and Community Based Organization which participated in activities referred to in subsection (3) of section 13 of this Act to keep records of

- (a) funds received for election expenses indicating the amount and the nature of funds received;
- (b) names and postal, physical and electronic addresses of donors;
- (c) funds anticipated to be received and their sources;
- (d) funds expended for nomination, election, campaigns and election; and
- (e) funds expended by candidates as nomination and election expenses.

(2) The political party shall ensure that-

- (a) donations consisting of goods or services are valued and recorded in accordance with this Act; and
- (b) financial statement as required under this Act together with auditors report are filed with the Registrar.

(3) The Registrar shall, for the purposes of record keeping under this section, make guidelines prescribing the manner in which records shall be prepared and maintained.

(4) All records relating to funds used as election expenses shall be audited by the Controller and Auditor-General in accordance with the provisions of the Political Parties Act.

(vii) The mandate and responsibilities of administrators or treasurers for political candidates and political parties with regard to transparency;

EEA, S. 17 (3) requires the Board of Trustee of a Political Party to render to the Registrar true return in the prescribed form showing expenses incurred and the amount apportioned to each candidate.

(Quoted above)

(viii) Description of the mechanisms in place to independently monitor the financing of political candidates or political parties;

EEA S. 18 (1 & 2) requires any candidate who receive fund as election expenses to prepare and submit to the Political Party which sponsored that candidate in election, respective party transmit to the Registrar the report contain true return in relation to

the Candidate, financial statement of all expenses incurred together with all bills and receipts or some other evidence of payment.

(Quoted above)

PPA, S.14 (1) (b): requires any political party to submit to the Registrar an annual statement of accounts of the Political Party audited by the Controller and Auditor General and the report of the account and annual declaration of all the property owned by the party.

Section 14.-

(1) Every political party which has been fully registered shall—

(a) maintain proper accounts of the funds and property of the party;

(b) submit to the Registrar –

(i) an annual statement of the accounts of the party audited by an auditor registered as an authorised auditor under the Accounts and Auditors (Registration) Act and the auditor's report on those accounts;

(ii) an annual declaration of all the property owned by the party.

(ix) Description of any specialized bodies in place in charge of controlling the financing of elections and political activity, as well as the prerogatives of such bodies.

- The Office of the Registrar of Political Parties.
- Prevention and Combating of Corruption Bureau.
- Controller and Auditor General
- Financial Intelligence Unit
- National Electoral Commission

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

- Disclosure reports by candidates for public office and/or political parties and other relevant entities;
- Election Expenses forms for disclosure and true return used in General Election and by-elections;
- Audited report of Political Parties published on 4 November 2014;
- Controller and Auditor General Report of 2015/16;
- Election Expenses monitoring report of 2015 General Election (not published);
- Audit reports;
- Controller and Auditor General report of 2016/17
- Cases and/or statistics involving violations of the political funding provisions

concerning transparency, including any sanctions applied or resulting criminal prosecutions;

- Deregistration of APPT, CHAUSTA and JHAZI ASILIA parties for noncompliance of the requirement to have account among other reasons.
- Public reports by Government institutions of public funding provided to candidates and parties.

(b) Observations on the implementation of the article

Tanzania has adopted various laws and regulations with a view to enhancing transparency in the funding of political parties. In addition, it has established specialized bodies in charge of controlling the financing of elections and political activity. Moreover, it has performed tangible practical actions in accordance with this provision.

During the country visit, Tanzania provided additional information on the financial limits in electoral campaigns and potential sanctions for breaches of the limits. Under the Election Expenses Order of 2015, a political party may not exceed the 17 billion Tanzanian shillings donations limit for a general election campaign. Limits for individual candidates vary depending on the size of the constituency. Sanctions for non-disclosure are provided under the Election Expenses Act (EEA) and may include prohibition to participate in the next elections.

Additionally, it was explained that there are no limits on individual donations, but their source must be disclosed if they exceed one million Tsh (~ 440 US dollars).

Audit reports of CAG on the statements/accounts that political parties submit to the Office of the Registrar of Political Parties are published. However, the Registrar, PCCB, as well as CIG may access the statements any time.

All the above mechanisms ensure the transparency of public funding and private donations of political campaigns and individual candidates in Tanzania. **However, it is recommended that Tanzania consider publishing statements/accounts of political parties as submitted to the Registrar of Political Parties and lowering substantially or eliminating entirely the thresholds for anonymous donations as provided in s. 11(1) of the EEA.**

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Measures that have been taken by Tanzania in the implementation of the provision include the following:

- The enactment of the Constitution of the United Republic of Tanzania of 1977, which provides for ethical principles for Public Leaders in the United Republic of Tanzania (e.g., articles 46A, 57, 110A, 69 and 84).
- The enactment of the Public Leadership Code of Ethics Act No. 13 of 1995 (as amended) and;
- The establishment of the Ethics Secretariat for Public Leaders (article 132, Constitution).

Constitution

Article 46A. Impeachment by the National Assembly (Act No. 20 of 1992, Art. 8 Act No. 12 of 1995, Art. 4)

(1) Notwithstanding the provisions of Article 46 of this Constitution, the National Assembly may pass a resolution to remove the President from office if a motion to impeach the President is moved and passed in accordance with the provisions of this Article.

(2) Subject to the other provisions of this Article, no motion to impeach the President shall be moved save only if it is alleged that the President has -

(a) committed acts which generally violate Constitution or law concerning ethics of public leaders;

(b) committed acts which contravene the conditions concerning the registration of political parties specified in Article 20(2) of this Constitution;

(c) conducted himself in a manner which lowers the esteem of the office of President of the United Republic,

and no such motion shall be moved within twenty months from the time when a similar motion was previously moved and rejected by the National Assembly.

Also, the Ethics Secretariat may initiate the impeachment of the President under section 22(2) (A) of the Public Leadership Code of Ethics Act No 13 of 1995.

Article 57. Tenure of office of Ministers and Deputy Ministers (Act No. 15 of 1984, Art. 9; Act No. 20 of 1992; Art. 9; Act No. 20 of 1992, Art. 11; Act No. 12 of 1995, Art. 8)

(1) The tenure of office of a Minister, or a Deputy Minister shall commence on the date he is appointed to hold that office.

(2) The Office of a Minister or a Deputy Minister shall become vacant upon the

occurrence of any of the following:

- (a) if the incumbent resigns or dies;
- (b) where the incumbent ceases to be a Member of Parliament for any reason not connected with the dissolution of Parliament;
- (c) where the President revokes the appointment thereby removing the incumbent from office;
- (d) where he is elected Speaker;
- (e) where the Prime Minister resigns or his office becomes vacant for any other reasons;
- (f) immediately before the President elect assumes office;
- (g) where the Ethics Tribunal makes a decision confirming that he has contravened the law concerning ethics of public leaders.

Article 110A. Procedures relating to discipline of Judges of the High Court (Act No. 1 of 2005, Art. 19)

(1) The procedure for dealing with discipline of Judges, for reasons other than those specified in subarticle (2) shall be as prescribed under the law to be enacted by the Parliament.

(2) A Judge of the High Court may be removed from office only for inability to perform the functions of his office (either due to illness or to any other reason) or for behaviour inconsistent with the ethics of office of Judge or with the law concerning the ethics of public leaders and he shall not be so removed except in accordance with the provisions of subarticle (4) of this Article.

Article 69. Formal declaration by Members of Parliament concerning ethics of Leaders (quoted under art. 8(5) below).

Article 84 concerning declarations by the Speaker of the National Assembly (quoted under art. 8(5) below).

Additional information is given under article 8 paragraph 5 below regarding categories of public leaders that are required to make **declarations** of their assets and liabilities.

Statistics regarding the level of compliance with the obligation to submit declarations by public leaders are provided under article 8 paragraph 5.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

In regard to guidance or other resources on conflicts of interest, the Ethics Secretariat provides ethics training to public leaders, after appointment, on-the-job training and during their internal meetings, and also provides brochures and copies of the code of ethics, as described under paragraph 5 of article 8.

(b) Observations on the implementation of the article

Tanzania's has adopted legislative measures that promote transparency and prevent conflicts of interest.

Furthermore, during the country visit, Tanzania confirmed that the Code of Ethics and Conduct for the Public Service (issued pursuant to the Public Service Act) requires public servants to report conflicts of interest to their superiors, who will decide upon the best course of action to resolve it. The relevant section is quoted below. Furthermore, public servants or their family members shall not receive gifts except for gifts of de minimis value. The Code applies "to all those serving in the Public Service but who are not covered by the Public Leadership Code of Ethics Act. No. 13 of 1995.

VIII. Discharge Duties with Integrity:

Adherence to laws

1. A Public Servant shall not fear to abide to Laws, Regulations and Procedures when discharging his/her duties.

Corruption

2. A Public Servant shall not solicit, force or accept bribes from a person whom he/she is serving, has already served or will be serving either by doing so in person or by using another person.

Gifts

3. i) A Public Servant or any member of his/her family shall not receive presents in form of money, entertainments or any service from a person that may be regarded as geared towards compromising his/her integrity.

ii) A Public Servant may accept or give nominal gifts such as pens, calendars and diaries in small amount.

iii) A Public Servant will return to the donor any other gift or hand them over to the government, in which case a receipt will be issued.

Conflict of interest

4. A Public Servant shall perform his/her duties honestly and impartially to avoid circumstances that may lead to conflict of interest. If conflict of interest arises he/she shall inform his/her superiors who will decide upon the best course of action to resolve it.

In respect of public leaders, the relevant definition of conflict of interest is provided in section 63 of the Written Laws (Miscellaneous Amendment) Act No. 2 of 2016 (amending the PL Code of Ethics Act) as follows:

"conflict of interest" is the situation where a public leader through his position in office or service, obtains or expects to obtain any interest or benefit, financial or otherwise, direct or indirect for himself or for some other person for whom he has a fiduciary relationship".

Tanzania is in compliance with its obligations under this provision of the Convention. In particular, it is positively noted that there are ethical principles for Public Leaders

enshrined in the Constitution, as well as in several laws and codes of conduct. However, the observations made under article 8(5) in respect of the need to introduce comprehensive declaration and verification systems in regard to conflict of interest are referred to.

(c) Challenges, where applicable

For the implementation of this article, training or seminars and other measures for internal staff and stakeholder are very significant at disseminating good practices and deliverance.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has taken the following steps/measures to ensure compliance with this provision of the Convention:

a) Laws, policies, administrative regulations or instructions or other practices aimed at promoting integrity, honesty and responsibility among public officials:

- Enactment of the Public Leadership Code of Ethics Act No.13 of 1995 (as amended).
- Enactment of a Leadership Ethics Guide for all employers, watchdog institutions and professional bodies, which provides guidance on how to carry out ethics programs in their MDAs/Institutions.
- Enactment of the Code of Conduct for Public Servants of 2005 and Government Circular No. 2 of 2015.
- Introduction of the Integrity pledge for all Public Leaders, Public Servants and the Private Sector has taken into account Integrity, Accountability and Professionalism as a way of promoting integrity and accountability.

b) Description of the oath of the office or other forms of assurances by public

officials upon induction that address the values above (upon entering service or periodically):

- Through the integrity pledge, public leaders and public servants are required to make an oath of working in accordance with ethical principles. The integrity pledge is done once a leader or a public servant is appointed to hold an office, when changing a ministry, and on promotion to another post.

c) Description of responsibility of specialized staff bodies in the public administration to promote integrity, honesty and responsibility among public officials:

- Existence of the Ethics Secretariat, which promotes and monitors public leaders conduct.
- Existence of the Department of Ethics in the Public Service Management.
- Existence of an Ethics Coordination Unit in the President's Office State House.
- The ethical guidelines provide a duty to employers, leaders, civil society, heads of department, and members of public, commission for human rights, government departments and watchdog institutions to promote, and strengthen ethics in their institutions. This is a general duty that has been directed to all employers, public leaders, public servants, non-state actors and other watchdog institutions and other public institution and professional bodies.
- A Government circular provides guidelines to public servants and public officials on the formulation of integrity committees in each ministry and department. The integrity committee coordinates and supervises all matters concerning integrity as well as corruption issues. When complaints concerning unethical practices are being reported, these committees discuss and solve the matter.

- d) One of the functions of the Ethics Secretariat is to conduct awareness campaigns on the Public Leadership Code of Ethics Act (PLCEA) among public leaders and the general public. Training on the PLCEA has been conducted to public leaders and the public for a number of years mostly using donor funds.**

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Statistics regarding the number of public officials who have been trained on issues of ethics and integrity.

YEAR	NO. OF LEADERS
2011/2012	1,000
2012/2013	3,664
2013/2014	3,632
2014/2015	2,552

2015/2016	7,442
2016/2017	3,129
TOTAL	21,419

(b) Observations on the implementation of the article

It was explained during the country visit that ethical behaviour is encouraged among public leaders by the Ethics Secretariat. Regarding other public officials, the Public Service Management sets ethical behaviour as a performance target and covers its assessment as part of annual performance assessments of public servants. It was also clarified that the role of Integrity Committees in public bodies is to recommend preventive and disciplinary measures when misconduct is reported.

It was further highlighted that from July 2017 to April 2018, the Good Governance and Reform Department (GGR) under the President's Office received 40 reports from Integrity Committees of various MDAs.

The legal framework and practices of Tanzania are in line with the provision of the Convention to promote integrity, honesty and responsibility among public officials. Tanzania is in compliance with the provision under review.

Paragraphs 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

List of existing codes or standards of conduct for the performance of public functions.

- There are different codes or standards of conduct for ministries, departments or other public sector offices.
- There are different codes of conduct among them are Public Leadership Code of

Ethics Act 1995 (as amended), Code of Ethics and Conduct for the Public Service (issued pursuant to the Public Service Act), and different professional codes of conduct including for the judiciary.

- The PCCB, for example, has its own code of conduct called “The Code of Ethics and Conduct for Officers of the Bureau”.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

There were no statistics availed from different institutions regarding the implementation of this provision.

(b) Observations on the implementation of the article

Tanzania clarified during the country visit that the codes referred above are enforceable. The codes are reviewed periodically including upon feedback received from public servants during training on the codes. A draft update to the current 2005 Code of Ethics and Conduct for the Public Service was close to completion. Tanzania also explained it was a practice to consult similar codes of other countries in the region and that the next revision of the code would introduce new rules on managing conflicts of interests.

Based on the information provided, Tanzania appears to be in compliance with the provisions.

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Reporting can be to the integrity committee as stated under article 8 (2) and (3) above. However, public officials can also report directly to the PCCB.

Please provide examples of the implementation of those measures, including related

court or other cases, available statistics etc.

There are no statistics provided.

(b) Observations on the implementation of the article

Tanzania referred to the Whistleblower and Witness Protection Act of 2015 as a legislative measure implementing the requirements of the provision. It was explained that the Act defines public interest disclosures and establishes appropriate protections for whistleblowers.

It was further explained that in practice, when a report of corruption is received by an integrity committee, it may recommend preventive or disciplinary measures. If the report tends to show that an offence has been or is being committed, the committee shall report it to PCCB.

However, the Whistleblower and Witness Protection Act does not protect whistleblowers from potential civil or criminal liabilities and requires that whistleblowers act in good faith to enjoy the protections under the Act. Furthermore, the Act does not protect those who make a report using channels not prescribed by the Act. Finally, it is noted that the Act applies to Mainland Tanzania only.

Internal reporting by public officials within their institutions is also possible, to the respective director of administration and human resources, or to the Integrity Committee. Some organizations, like the PCCB, have established more comprehensive internal complaint reporting systems.

Based on the above, Tanzania is partially compliant with the provision. To fully implement it, **it is recommended that Tanzania consider amending the Whistleblower and Witness Protection Act to protect whistleblowers from potential civil or criminal liability and consider extending the protections of the Act to those who do not use the prescribed reporting channels.**

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if

any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

a) Measures that have been taken by Tanzania in the implementation of the provision include the following:

- The enactment of the Constitution of the United Republic of Tanzania of 1977, which provides for ethical principles for Public Leaders in the United Republic of Tanzania (e.g., articles 46A, 57, 110A (quoted under art. 7(4) above)), as well as ethics and conflicts of interest declarations (articles 69 and 84).
- The enactment of the Public Leadership Code of Ethics Act No. 13 of 1995 (as amended) and Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities) Regulations 1996 and;
- The establishment of the Ethics Secretariat for Public Leaders (article 132, Constitution).

Constitution

Article 69. Formal declaration by Members of Parliament concerning ethics of Leaders (Act No.12 of 1995, Art.11)

(1) Every Member of Parliament shall be required before the expiration of thirty days since taking oath as Member of Parliament to submit to the Speaker two copies of a formal declaration that he has not lost the qualifications for election in terms of paragraph (d) of subarticle (2) of Article 67.

(2) The formal declaration required to be submitted to the Speaker shall be made on a special form prescribed in accordance with a law enacted by Parliament.

(3) The Speaker shall transmit to the Ethics Commissioner a copy of every formal declaration submitted to him in accordance with the provisions of this Article.

(4) In this Article and in Articles 70 and 84 “the Ethics Commissioner” means the Commissioner appointed to head the Ethics Secretariat referred to in Article 132 of this Constitution.

Article 84, Constitution

(1) There shall be a Speaker of the National Assembly who shall be elected by the Members of Parliament from amongst persons who are Members of Parliament or who are qualified to be Members of Parliament and shall be the Leader of the National Assembly in all other institutions and meetings.

(2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purposes of this Article shall not be elected Speaker.

(3) Any person elected Speaker shall be required, before the expiration of fifteen days of his election, to submit to the President a formal declaration that he has not lost the qualifications for election in terms of the provisions of paragraph (d) of subarticle (2) of Article 67. The declaration shall be made in a special form

prescribed in accordance with a law enacted by Parliament.

(4) The President shall transmit to the Ethics Commissioner a copy of every formal declaration submitted to him in accordance with the provisions of subarticle (3) of this Article.

...

Financial disclosure systems (see article 52(5) below for more detail)

b) The categories of public leaders that are required to make declaration of their assets and liabilities. The Public Leadership Code of Ethics (Act No. 13 of 1995 as amended) together with its amendments under S.4 provides for the following categories:

- The executive: President and his cabinet, permanent secretaries, directors and all government officials as listed in the code.
- The judiciary (primary court magistrate, resident magistrate, and judges).
- Parliament: members of parliament and councillors (political leaders)

c) Information that must be declared by public leaders are provided under s. 11 (1) of the Public Leadership Code of Ethics Act, as amended, which shall include:

- Residences, recreational property and farms used or intended for use by public leader or their families
- Works of art, antiques and collectibles;
- Motor vehicles and other personal means of transportation for private use;
- Cash and deposit in bank or other financial institutions;
- Treasury bills and other similar investments in securities of fixed value issued or guaranteed by the government or agencies of the Government;
- Interest on money deposited in a bank, or other financial institution;
- Dividends or other profits from stocks or shares held by a public leader in any company or other body corporate;
- Interests in business that do not contract with the Government, and do not own or control publicly traded securities, other than incidentally, and whose stocks and shares are not traded publicly;
- Farms under commercial operation;
- Real property which is not a non-declared asset;
- Assets that are beneficially owned, which are not non-declarable assets and which are administered at arm's length.

d) Frequency of declaration required: Each public leader is required to make a declaration under S. 9 (a-d) of the PL Code of Ethics Act, as amended. Every public leader shall submit to the ethics commissioner a written declaration in a prescribed form of all

property or assets owned by or liabilities owed to him his spouse and children under eighteen years within

- Thirty days after taking office;
- At end of each year (31 December);
- At end of the term of office.

Section 9.

(1) Every public leader shall, except where the Constitution or any other written law provides otherwise;

- (a) within three months after the commencement of this Act, or
- (b) within thirty days after taking office;
- (c) at the end of each year, and

submit to the Commissioner a written declaration, in prescribed form, of all property or assets owned by, liabilities owed to, him, his spouse or unmarried minor children, subject to subsection (2).

(2) A public leader shall not be required to declare as his property, and property shall not be deemed to be declarable by a public leader if -

- (a) it is not matrimonial property;
- (b) it is not jointly owned with the public leader's spouse or spouses;
- (c) there is no allegation that a public leader appears to have suddenly

and inexplicable come into possession of extraordinary riches in relation to his observable sources of income.

(3) Any property or asset acquired by a public official after the initial declaration required by paragraph (a) or (b) of subsection (1) and which is not attributable to income, gift, or loan approved in the Code shall be deemed to have been acquired in breach of the Code unless the contrary is proved.

e) How are declarations submitted?

- Declarations are submitted personally, physically or by registered mail.

f) Availability of tools and advisory services that officials can use in order to comply with their disclosure related obligations (guidelines for filling out form out forms, resources for learning about conflict of interest issues, resources for receiving tailored advice on specific conflict of interest situations, etc.):

- The Ethics Secretariat provides ethics training to public leaders, after appointment, on job training and during their internal meetings, provision of brochures, copy of the code of ethics.

g) Whether information is declared on assets of public officials' family members or

members of public officials' households and under which circumstances such information is provided:

- Every public leader shall submit to the ethics commissioner a written declaration in a prescribed form of all property or assets owned by or liabilities owed to him his spouse, children under eighteen years within thirty days after taking office
- The written declaration form provided to the public leader has a special part for entering/recording assets of the spouse and children of the public leader who are under 18 year it is a legal requirement under section 9 (1) of the PL Code of Ethics Act, as amended.

h) Mechanisms in place for ensuring compliance with the obligation to disclose:

- There are legal penalties that can be imposed against a Public leader if he/she fails to meet the obligation set by the code, he /she shall be considered to have breached the PL Code of Ethics Act (section 15) if:
 - He fails to make a declaration required by law
 - He knowingly makes a declaration that is false or misleading in a material particular
 - Submits a late declaration (after 31 December).

15. Failure to make declaration, or making of false declaration under section 9

A public leader who is subject to section 9 shall be considered to have breached the Code if—

- (a) he fails, without reasonable cause, to make a declaration required by that section; or
- (b) he knowingly makes a declaration under section 9 that is false or misleading in a material particular.

i) Any mechanism to carry out the verification /monitoring of the content of declarations:

- Verification is done by selecting a number of public leaders each year by analyzing the assets and liabilities of the public leader

j) What triggers verification (complaints, routine verification/ex-officio, notifications from other information from other institutions, random selection, etc):

Different scenarios can trigger verification.

- Upon receipt of complaint against a public leader.
- The commissioner may initiate verification of the public leader's assets due to her/his conduct and behaviour of the public leader.
- As a routine and duty of the Secretariat to conduct analysis and physical verification.
- Upon request from other government institution commissioner to conduct

verification against a public leader.

k) What processes are involved in the verification/review process) checks for internal consistency, cross checks with external databases, comparisons across years, identification of potential conflict of interest):

- The verification review processes involve comparison across the years through analysis of leaders' assets and liabilities.

l) What information can be accessed during the verification /review process (from public officials or public and private sector entities):

The following information can be accessed:

- Immovable properties: bare land, real property, building, mining plots, recreational properties, farms for private use or for commercial use.
- Movable properties, shares and dividends, motor vehicles, work of art, antiques, milling machines, bank statements, annual income of public leader, business, shares, plots, houses investment etc. (note: all assets that are required to be declared by public leader.

m) What happens once irregularities are identified (potential conflict of interest, unjustified variations of wealth, inaccurate information, etc.)?

- The code of ethics for public leaders allows the Ethics Secretariat to conduct preliminary investigation and if a leader is found to have a case to answer he/she will be taken before the Ethics Tribunal for thorough investigation.

n) Whether and to what extent the content of disclosures (in summary form or all information disclosed) or names of persons submitting declarations are made available to the public and other sector entities and moreover how the information is made available (upon individual request, on-line etc.).

Members of the public can inspect the information of declaration upon satisfaction of the following conditions:

- A person wishing to make inspection has lodged with the commissioner a complaint against a public leader;
- On his assessment, the commissioner is satisfied that the complaint is genuine, relevant and was made in good faith; and
- An inspection fee of Tanzanian shilling one thousand has been paid before the complainant is allowed to make inspection.

o) When the Commissioner, on assessment of the complaint lodged is not satisfied with the genuineness or is otherwise dissatisfied with the intention of the complainant he may refuse to grant permission for inspection or may require the complainant to

furnish to him more information relating to the complaint.

- p) The Ethics Secretariat has a total number 173 dedicated trained staff for collection, compliance and providing advisory services to officials.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Statistics regarding the level of compliance with the obligation to submit declarations by public leaders:

Table 1: Assets and Liabilities forms distributed and collected Public Leaders

Year of Declaration	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Number of Assets and Liabilities Declaration Form distributed	8,412	8,972	9,505	12,223	13,840	15,624
Number of Declarations made by 31 st December	3,769	8,646	8,644	8,544	9,677	11,428
Percentage	44.8%	96.3%	90.9%	69.9%	69.9%	73.1%
Number of Declarations made by the end of FY (June 30)	7,655	8,646	8,978	11,318	11,927	14,907
Percentage	91.0%	96.36%	94.45%	92.59	86.17%	95.41%

Statistics on the number/percentage of declarations that raised red flags during verification/review, required follow up and those that did not require follow-up:

Table 2: Number of Verifications Conducted 2009/10 -2016/17

YEAR OF VERIFICATION	NUMBER OF DECLARATIONS VERIFIED	NUMBER OF DECLARATIONS THAT RAISED RED FLAGS	NO. OF DECLARATIONS THAT DID NOT REQUIRE FOLLOW UP
2009/2010	809	0	809
2010/2011	209	3	206
2011/2012	133	2	131
2012/2013	247	19	228

2014/2015	0	0	0
2015/2016	0	0	0
2016/2017	463	76	76
TOTAL	1,861	100	1,450

(b) Observations on the implementation of the article

It was explained during the country visit that that, apart from the obligation for members of parliament and the Speaker of the National Assembly to make ethics and conflicts of interest declarations (articles 69 and 84 of the Constitution), the focus of the declarations for public leaders under the PL Code of Ethics Act is on financial disclosures of assets and liabilities. There is no obligation on public leaders to declare non-financial interests, such as outside activities and employment, positions in companies, other associations, gifts or benefits from which a potential conflict may arise. At the same time, other public servants are required to disclose conflicts of interest pursuant to the Code of Ethics and Conduct for the Public Service contained in the PS Regulations 2003 (section VIII, 4. quoted above under article 7(4) of the Convention).

Each public body may introduce its own requirements for staff to declare interests among its staff. For example, procurement evaluation committee members and tender board members are required to sign codes of conduct before commencing the evaluation exercise and to declare that they do not have a conflict of interest, which may affect their decision-making (see article 9 below). Similarly, PCCB requires its staff to declare interests.

Declarations of public leaders can in practice be shared with other countries through the Attorney-General's Office using MLA channels.

Regarding gifts, public leaders must declare gifts in excess of 200 000 shillings (section 12(2) PL Code of Ethics Act, as amended, and section 65 of the Written Laws (Miscellaneous Amendment) Act No. 2 of 2016). The Code of Ethics and Conduct for the Public Service prohibits any gift including cash gifts, entertainment or service. Certain public servants are prohibited from receiving gifts from current or future customers.

Regarding guidance or other resources on declarations, the Ethics Secretariat provides ethics training to public leaders, after appointment, on-the-job training and during their internal meetings, and also provides brochures and copies of the code of ethics.

Statistics regarding the level of compliance with the obligation to submit financial declarations by public leaders, as well as on declarations that raised red flags, are provided. These suggest that, from 2009 to 2017, only a very small number of declarations raised red flags.

Efforts are being undertaken to improve conflict of interest declarations with regards to public leaders at least. Specifically, Tanzania is looking at improving verification processes by substituting the current paper-based declaration forms with online forms. Tanzania also updated the review team about the existing framework to verify declarations of public leaders. The Ethics Secretariat selects a certain number of disclosures based on risk and other factors for physical verification annually. The Secretariat may hire outside experts such as financial analysts to assist in verifications.

Based on the above, it is recommended that Tanzania endeavour to introduce comprehensive measures requiring public leaders and other public officials to declare their interests, gifts or benefits from which a conflict of interest may arise (including non-pecuniary interests) and effective systems of verification of such declarations. Apart from declarations, it would also be important to introduce measures to manage conflicts of interest where they arise.

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Measures that can be taken against a public leader for breach of the PL Code of Ethics are provided under section 8 of the Code of Ethics as follows-

- Warning and caution
- Demotion
- Suspension
- Dismissal
- Advising the leader to resign from the office to which the breach relates
- Imposition of other penalties provided for under the rules of discipline related to the office of the leader
- Initiating action for the leader to be dealt with under the appropriate law.

a) The process, including steps that need to be taken, before a public official can be sanctioned, are as follows;

- A complaint is received against a public leader for breach of the code;
- A preliminary investigation is done;
- Report as to whether public leader has breached the code is send to the Ethics

Tribunal whereby a thorough investigation is done again against the public leader where by the public leader is being called to prove the allegation;

- The report of the recommendation of the ethics tribunal against the leader is forwarded to the President for his decision.
- b) The institutional mechanism mandated to investigate suspected violations, make decisions on sanctions and ensure that the disciplinary or other is vested to the Ethics Secretariat under section S.18 (1) of the law.
- c) The Ethics Secretariat which is established by Article 132 of the Constitution of the United Republic of Tanzania shall be an extra Ministerial Department of the Government under the Office of the President. Its main function is to implement the Public Leadership Code of Ethics Act, No. 13 of 1995 (as amended), specifically to monitor the ethical behaviour and conduct of public leaders. The Ethics Secretariat performs the following functions:
- To receive and verify declarations of assets and liabilities which are required to be made by public leaders under the Constitution of the United Republic of Tanzania or any other law as per the identified time deadlines and composition rules.
 - To receive allegations and notifications of breaches of the Code of Ethics from members of the public.
 - To conduct preliminary investigations into allegations or complaints against any public leader in relation to compliance with the Code.
 - To report to the President with respect to matters relating to the jurisdiction of the Ethics Secretariat under the Public Leadership Code of Ethics Act. No. 13 of 1995 (as amended).
 - To enter in the Register the particulars of assets and liabilities declared by public leaders.
 - To conduct physical verification of the assets and liabilities declared by public leaders.
- d) As noted above under art. 8(2), apart from the Public Leadership Code of Ethics Act 1995 (as amended), there are different codes or standards of conduct for ministries, departments or other public sector offices, including the judiciary. Principally among them is the Code of Ethics and Conduct for the Public Service (issued pursuant to the Public Service Act), which applies to all public servants who are not covered by the Public Leadership Code of Ethics Act.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics available.

(b) Observations on the implementation of the article

Tanzania explained during the country visit that breaches of the Code of Ethics and Conduct for the Public Service are dealt with in accordance with the PS Regulations of 2003. Schedule 1 of the Regulations lists available sanctions and Regulations 41-44 of Part V(B) outline the conduct of disciplinary proceedings.

Tanzania has put in place mechanisms to hold public officials accountable in case of breach of the codes. Tanzania is in compliance with this provision.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if

any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

1.0 The Public Procurement System of the United Republic of Tanzania

The Public Procurement Regulatory Authority (PPRA) is mandated, under sections 9(1)(b), 9(1)(h) and 9(1)(i) of the Public Procurement Act No. 7 of 2011 (PPA 2011) to monitor and report on the performance of the procurement systems; to monitor the award and implementation of public contracts; and to institute procurement, contract and performance audits.

Public Procurement Act No. 7 of 2011

Section 9.

(1) The functions of the Authority shall be to-

(a) advise Government, local government authorities and statutory bodies on procurement principles and practices;

(b) monitor and report on the performance of the public procurement systems in the United Republic of Tanzania and advise on desirable changes

(h) monitor the award and implementation of public contracts with a view to ensuring that:

(i) such contracts are awarded impartially and on merit;

(ii) the circumstances in which each contract is awarded or terminated, do not involve impropriety or irregularity;

(iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each contract conforms to the terms thereof.;

(i) institute:

(i) procurement audits during the tender preparatory process;

(ii) contract audits in the course of execution of an awarded tender; and

(iii) performance audit after the completion of the contract in respect of any procurement as may be required.

The Public Procurement Act principles foster transparency, competition, openness, integrity and fairness. To enhance procurement practices, the country has adopted the Public Procurement Act of 2011 and the Public Procurement Regulations of 2013 (GN No. 446), together with the Public Procurement (Amendment) Act of 2016 and Public Procurement Regulations (Amendments) of 2016.

The number of registered and active procuring entities (PEs) has risen from 237 in 2014/15 to 493 in 2015/16.

1.1 Procedures used to determine conditions for participation in a tender

The Public Procurement Act of 2013 and the Public Procurement Regulations read together with their respective amendments of 2016 provide guidance on how bidders may

participate in the tendering process for the purpose of acquiring goods, rendering services or executing works. Regulation 8 of GN No. 446 of 2013 as amended by GN No.333 of 2016 elaborates on the issue of equal participation by tenderers. The referenced Public Procurement Regulations stipulate (in Regulation 8) that in order to ensure widest possible participation by tenderers on equal terms in inviting tenders for goods, works, services, provision of consultancy services or disposal of assets, procuring entities shall take the necessary measures to:

- Ensure publication of invitations to tender or to submit expression of interest or proposal in the journal, tenders portal, newspapers of wide circulation and other appropriate means as prescribed in the First Schedule to the Regulations;
- Eliminate discriminatory practices, technical specifications or description of services which may limit participation on equal terms;
- Ensure that all the selection criteria are specified in the tender documents or prequalification and request for proposal; and
- Ensure that the tender or proposal selected conforms to the requirements of the tender documents or request for proposal and meets the prescribed selection criteria.

All the above stated rules create a favourable environment on equal participation of bidders in the tendering process.

1.1 Tendering rules

For ensuring that the principle of equity is adhered to, the Act has identified various procurement methods having the objective of reaching the possible potential bidders who shall compete among themselves to select the bidder who shall be given responsibility of supplying goods, rendering services or executing works at competitive prices. Apart from setting out procedures, the thresholds for the value of procurements have been set out in line with the applicable procurement methods.

Regarding the tendering process, the Public Procurement Act recognizes both competitive methods and non-competitive methods. Although both methods are recognized, Regulation 149(1) of GN No. 446 of 2013 recommends competitive procurement methods during procurement of goods, works and non-consultancy services. This implies that the competitive procurement methods are highly recommended to allow for competition among bidders who shall participate in the tendering process. Criteria for the selection of other procurement methods, upon prior approval of the tender board, are set out in Regulation 149(2)-(4). (Standard tendering documents for various procurements are available on the Authority's website).

Regulation 149. Method of Procurement

(1) The procurement of goods, works and non consultancy services through international and national competitive tendering prescribed in these Regulations shall be considered before other methods of tendering prescribed in these Regulations are used.

(2) Subject to the prior approval, in writing, of the tender board, other methods of procurement may be used where it is established that such methods may have due regard for transparency, economy and efficiency in the implementation of the

project.

(3) Where a procuring entity uses a method of procurement pursuant to sub-regulation (2), the procuring entity shall include, in the record required under regulation 15, a statement of the grounds and relied circumstances with a view to justify the use of the method.

(4) A procuring entity may select an appropriate alternative method of procurement if-

(a) the competitive tendering is not considered to be the most economic and efficient method of procurement; and

(b) the nature and estimated value of the goods, works, or services permit.

1.2 Selection and award criteria

The criteria for the selection of bidders are specified in the tender documents or pre-qualification documents, as the case may be, and the request for proposal documents which are issued by the procuring entities. The standard bidding documents are prepared by PPRA and available on the Authority's website. The documents are for various procurement categories such as goods, works, consultancy, non-consultancy services and disposal of public assets by tender. Similarly, the tender evaluation criteria are required to be stated clearly in the tender dossier and during evaluation such criteria shall be observed. The provision is stipulated under Reg. 203 of GN No. 446 of 2013, which requires the tender evaluation to be consistent with the terms and conditions prescribed in the tender documents and such evaluation to be carried out using the criteria explicitly stated in the tender documents.

In the process of carrying out evaluation, the Procurement Act has set a provision for determining the lowest evaluated tender. Pursuant to Reg. 213 of GN No. 446, there are some criteria which have been set which the Procuring Entity may consider when determining the lowest evaluated tender. Those criteria include but are not limited to: the tender price subject to any margin of preference applied; and the cost of operating, maintaining and repairing the goods or construction or services; the time for delivery of the goods; completion of construction or provision of the services; the functional characteristics of the goods or construction; and the terms of payment and of guarantees in respect of the goods, construction or services. Subject to the evaluation to be conducted, bidders who will be found to meet all relevant criteria set out into the tender document including the most economical price, shall be considered for the award of the contract.

1.3 Establishment of sufficient time for potential tenders to prepare and submit their tenders

The procurement law requires purchasing entities (PEs) to provide sufficient time for the preparation and submission of tenders to be set out, so that bidders may prepare their bids comprehensively by considering the criteria set out in the tender documents. Pursuant to Sec. 68(3) of the Public Procurement Act of 2011, tender notices are required to be published in sufficient time, as prescribed in the Regulations, to enable prospective

tenderers to obtain tender documents and prepare and submit their responses before the deadline for receipt of tenders. The eighth schedule of the Public Procurement Regulation GN No. 446, as amended by GN No. 333 of 2016, defines minimum procurement processing times to be met by PEs for each procurement method.

Public Procurement Act of 2011

Section 68(3) Any tender notice shall be published in sufficient time, as prescribed in the Regulations, to enable prospective tenderers to obtain tender documents and prepare and submit their responses before the deadline for receipt of tenders.

1.4 Means and procedures by which procurements are announced and published

(a) Publication of Specific Procurement Notice

For each procurement method, procedures have been laid down so as to facilitate the effective handling of procurement processes. Regulation 19 of GN No. 446 of 2013 requires procuring entities to prepare a tender notice for national and international tenders and submit the same to PPRa for publication in the Journal and Tenders Portal; national and international tenders must also be advertised in a local newspaper of wide circulation in accordance with the First Schedule to these Regulations. In the case of international tendering, procuring entities may also publish a similar notice in appropriate foreign or international publications or professional or trade journals.

The invitation of tender is issued after the procuring entity prepared tender document and approved by the respective tender board and pursuant to Reg. 183 of GN No. 446 of 2013, the tender documents are issued to the tenderers who have responded to the tender.

Regulation 19. Publication of specific procurement notice

(1) Procuring entities shall prepare a tender notice for national and international tenders and submit the same to the Authority for publication in the Journal and Tenders Portal.

(2) Subject to sub-regulation (1), procuring entities shall advertise each approved tender notice in accordance with the First Schedule to these Regulations.

(3) In the case of international tendering, procuring entities may publish a similar notice in appropriate foreign or international publications or professional or trade journals which are likely to be seen by the greatest number of potential tenderers.

(b) Publication of procurement awards and contract execution

As a part of enhancing transparency and openness in the procurement process, Procuring Entities are required to submit contract award information to the Authority in respect of any procurement made without regard to the method of procurement used within fourteen days from the date of award for publication in the Journal and Tenders Portal (Regulation 20(1)). The contract award information should contain full details in regard to the names of participants of the tender in question; the read out tender price; the reasons for those eliminated in the tender; the name of the winner of the tender and the contract amount; the date when the award was made; and contract period (Regulation 20(2)).

1.5 Rejection of tenders

There are various grounds, which may require the procuring entity to reject tenders that have been submitted by bidders. The circumstances that may lead to the rejection of tenders may include:

- Any attempt by a tenderer to influence the procuring entity in the process of examination, clarification, evaluation and comparison of tenders, and in decisions concerning the award of the contract. (This is pursuant to Reg. 201 of GN No. 446 of 2013) and
- Where no tender or proposal is responsive to the tender documents or request for proposals; no tender or proposal satisfies the criteria for the award of the contract as set out in the tender documents or request for proposal; the economic or technical data of the project have been altered; exceptional circumstances render normal performance of the contract impossible; every tender or proposal received exceeds the budgetary resources available; the tenders or proposals received contain serious irregularities resulting in interference with the normal play of market forces; funds voted or earmarked for the procurement have been withheld, suspended or have otherwise not been made available; or there has been no competition. (This is pursuant to Reg. 16 of GN No. 446 of 2013).

1.6 Rules that allow for a procurement method other than open tender procedure.

The procurement law allows PEs to use procurement methods other than open tendering subject to Tender Board (TB) approval under circumstances such as: the goods or services are only available from a particular tenderer who has exclusive rights in respect of goods or services; or there is an urgent need for the goods or services; or the PE enters into a contract for the purpose of conducting a research, experiment or study; or where there are ongoing projects needing additional items for completion pursuant to Regs. 152, 159, 163, 165, 166 and 167 of PPR 2013. Likewise the procuring entity may deploy restricted procurement methods where: the supplier, service providers or contractors have already been pre-qualified; or the goods, services or works are of a specialized nature; or there are urgent needs for the goods, services or works; or where is a need to achieve certain social objectives by calling for or restricting participation of local communities or special groups for the purpose of building capacity. Further, the PPA 2011 allows procuring entities to procure under emergency procurement where the Accounting Officer determines that it is in the public interest that goods, works or services be procured as a matter of urgency under Section 65 of PPA 2011 as amended by amendment Act, 2016

1.7 Procedures that allow for changes in the tendering rules and award criteria during the procurement process.

The procuring entity under Section 68(5) of PPA 2011 and Regulation 13 of PPR 2013 as amended by PPR 2016 may modify the solicitation documents for any reasons whether out of its own initiative or upon request for clarification by a tenderer by issuing an addendum seven days prior to the deadline for submission of tenders. The addendum shall

be circulated promptly to all tenderers to which the procuring entity has provided the solicitation documents.

1.8 Consequences for failure to abide by the applicable laws, regulations and procedures including those regarding publication.

The PPA 2011 under Section 104 sets out actions categorized as offences and if found guilty a person is liable to fine not exceeding ten million shillings or imprisonment for a period not exceeding three years or both. Section 104 (3) gives powers to the Authority to transfer a PE's procurement functions to the Agency until the Authority is satisfied that the causes of contravention have been rectified.

Regarding publication, each procuring entity intending to procure goods, works or services is required to prepare a general procurement notice based on its annual procurement plan and submit to the Authority for publication in the journal and tender portal pursuant to Regulation 18 of PPR 2013.

1.9 Description of any bodies in charge of supervising adherence to the rules for the award and execution of public contracts, the means of powers vested in them and results of their supervision.

The PPA 2011 under various sections specifies the functions for each procurement organ in each procuring entity starting from the budget approving authority, Accounting Officer (AO), Tender Board, Procurement Management Unit, Internal Audit Unit, User Department and Evaluation Committee. The PPA under Section 41 requires the AO, TB, PMU, Evaluation Committee and User Department to act independently in relation to their functions and powers. The overall oversight for each procuring function is vested in the budget approving authority.

1.10 Any activities undertaken with business and professional organizations in order to prevent corruption.

The Authority in collaboration with PCCB and other law enforcement institutions signed a memorandum of understanding (MoU) for exchanging procurement information and reports for the purpose of combating corruption. The Authority, in the course of conducting procurement audits, assesses the levels of procurement practices in the procurement process. It has developed a set of pre-determined questions which are subjected to sample audit for the same purpose. If the results of the PE's red flag scores is more than 20%, the procurement audit report for the PE is submitted to the PCCB for further investigation.

1.11 The procedures and content required regarding public distribution of invitations of tenders.

Section 68 of PPA 2011 and Reg. 19 of PPR 2013 set procedures required for public advertising of tenders. Each tender advertisement shall be approved by a relevant Tender Board. PEs are required to ensure that tender notices are published in sufficient time and

ensure the widest reach of potential bidders. The procurement law under Regulation 19 of GN No. 446 of 2013 requires PEs to submit tender advertisements to the PPRA for advertisement in the procurement journal and tender portal. In case of international tenders, the PEs may publish invitations to tender in foreign publications or professional or trade journals, which are likely to be seen by a great number of potential bidders.

1.12 The procedures, rules and regulations for review of the procurement process, including the system of appeal and available legal recourse or remedies.

Regulations 104 to 106 of PPA 2011 as amended by Reg. 2016 give powers to the Accounting Officer (AO) to deal with applications for administrative review and to suspend the procurement process until a written decision on the complaint is given, whenever a tenderer lodges a complaint against procurement process. Likewise, Reg. 107 gives room for the complainant to lodge a complaint wherever the AO fails to settle the dispute or he is dissatisfied by the decision given by the procuring entity.

1.13 Description of the selection of personnel responsible for procurement including declaration of interest and potential conflict of interest in particular cases.

Section 31 of the PPA 2011 requires each procuring entity to establish a Tender Board (TB) for the procurement of goods, works, services and disposal of assets by tender. Further, the law under Section 32(1) requires each AO to notify the Authority of the composition of the TB and qualifications of its members upon its establishment. The AO is further required to establish a procurement management unit staffed to an appropriate level to deal with procurement issues.

In order to curb corruption, suppliers and service providers participating in public procurement are required under the laws to sign an anti-bribery policy to commit themselves that they will not indulge in corruption practices. Likewise, evaluation committee members and Tender Board members are required to sign codes of conduct before commencing the evaluation exercise or award deliberation for the same purpose and to declare that they do not have a conflict of interest, which may affect their decision-making. The procurement laws provide for stringent penalties for those proven to indulge in corrupt practices. Finally, contractors, service providers and suppliers may be debarred from eligibility for public contracts for a certain period when proved that they have engaged in fraudulent practices.

31. Tender Boards

(1) Except where it is provided otherwise in this Act, or regulations under this Act, each public body shall establish a tender board for procurement of goods, services, works and disposal of public asset by tender.

(2) The composition of tender board, the method of appointment of its members, and the procedures to be followed by such tender boards other than local government authority tender Board, shall be as prescribed in the Second Schedule to this Act.

(3) The composition of local government authority tender board and the method of

appointment of the members, and the procedures to be followed by such a tender board, shall be prescribed in Regulations made pursuant to the provisions of the Local Government Finances Act.

(4) The Regulations made pursuant to subsection (3) shall, inter alia, provide for the procedure under which a local government authority through its committee responsible for finance and planning shall perform its oversight function on public procurement matters.

(5) Members of the tender board shall be appointed on the basis of their technical competence required for the discharge of the functions of the tender board.

(6) A member of the tender board or committee thereof, who is a member of a company, firm or other body or is a partner or is in the employment of a person or a company or other body or is married to a person who has submitted an offer for the supply of goods or for the provision of services, execution of works or acquisition of public assets by tender in connection therewith which is the subject of consideration by the tender board, shall disclose the fact and shall not take part in the consideration or discussion of or vote on any question relating to such offer.

32. Notification to the Authority of composition of tender board.

(1) The accounting officer shall inform the Authority of the composition of the tender board and the qualifications of its members not later than fourteen days from the date of its appointment.

1.14 Description of any other administrative practices promoting integrity in the procurement such as debarment procedures

- Capacity building to all stakeholders involved in public procurement

The PPA (Amendment) 2016 under section 9(1)(m) & (o) requires the Authority to conduct capacity building to all stakeholders involved in public procurement for the purpose of creating awareness in the overall procurement process. Increased awareness of stakeholders is expected to sharpen their knowledge in procurement processes and hence help to detect and report any procurement misconduct.

- Review of the common use framework agreements mechanism

The PPR (Amendment) 2016 under Regulations 131 and 132 requires procuring entities to conduct mini competitions (open framework agreements) under common use item framework agreements. The efforts are aimed at increasing competition and reducing favouritism, which might attract corruption.

- Harmonize procurement rules and policies

Under the previous PPA (Act No. 7 of 2011), each Procuring Entity was allowed to define the mechanism and manner for debarring firms from participating in future public tenders. The procurement practitioners perceived this as an avenue for corrupt practices, as Procuring Entities were allowed to debar firms from participating in public tenders at the

PE level. The PPA (Amendment) 2016 clearly states that only the PPRA is mandated to define the mechanism for debarment under Regulation 93 of PPR 2013 as amended by PPR 2016.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

- The number of registered and active procuring entities has risen from 237 in 2014/15 to 493 in 2015/16.
- The number of GPN publications has increased from 237 in 2014/15 to 493 in 2015/2016.
- The Authority (PPRA) in collaboration with PCCB and other law enforcement institutions signed a memorandum of understanding (MoU) for exchanging procurement information and reports for the purpose of combating corruption.
- In 2015-2016, the Authority has conducted dissemination workshops to 805 participants, tailor made courses for 338 participants and annual governance workshops for 427 participants.
- The Authority has debarred a total of 21 firms from participating in public procurement in FY 2014/15; the number decreased to 5 firms in 2015/16 due to increased awareness in public procurement knowledge as cited under (5) above.
- Appeal Case No. 26 of 2016-17 whereby M/s Nyalinga Investment Company Ltd was aggrieved by Mpanda Urban Water Supply and Sanitation Authority. The appellant was aggrieved with the disqualification of its tender and the intention of the respondent to award the same to the proposed successful bidder M/s Girison Investment Co. Ltd. The appellant alleged that the evaluation committee erroneously evaluated his quoted tender price of TZS. 575, 224, 500.00 as VAT exclusive instead of VAT inclusive. He further argued that his tender was unfairly disqualified for not stating whether its quoted tender price was VAT inclusive or exclusive, although his tender was in compliance with the requirements of the bidding document.

Issues determined by Public Procurement Appeals Authority (PPAA) warranting disciplinary measures

PPAA observed that the appellant had quoted TZS. 575,224,500/- while the proposed successful tenderer had quoted TZS. 667,452,250/- VAT inclusive. It was further observed that the respondent had ranked first the proposed successful tenderer's price of TZS. 565,637,500/- without stating whether it was VAT inclusive or exclusive and that the same was also not indicated in the notice of intention to award. PPAA further observed that the appellant's tender was in compliance with the tender document and therefore the quoted price of TZS. 575, 224,500.00 was VAT inclusive.

Decision by PPAA

PPAA concluded that the respondent erred in reducing the price of the proposed successful tenderer from a VAT inclusive sum of 667,452,250/- to 565,637,500. PPAA therefore nullified the award made to the proposed successful tenderer and

ordered the respondent to proceed with the tender process by post-qualifying the appellant since his quoted price was the lowest. PPAA further ordered the respondent to compensate the appellant by a sum of TZS. 200,000.00 being the appeal filing fee.

- Other examples can be viewed in procurement journals from the Authority's website <https://www.ppra.go.tz>.

Following the country visit, Tanzania provided a further update:

During the financial year 2017/18, PPRA recorded some achievements as explained under the following subsections:

Capacity building

- a) The Authority organized the 6th Annual Procurement Governance Workshop between March and April 2018, with a theme "*Leveraging Technology in Public Procurement to Enhance Industrialization*". The workshop was attended by 194 participants from 86 PEs, involved board members of public authorities, council members, Accounting Officers, Tender Board members, Procurement Management Unit staff, representatives of User Departments (UDs) and Internal Audit Units (IAUs);
- b) The Authority, in collaboration with the National Economic Empowerment Council and Tanzania Women Chamber of Commerce, has started raising awareness of special groups to ensure they enjoy the benefits of preference scheme offered by the procurement legal framework. Two workshops on increasing awareness for women entrepreneurs were organized and attended by 70 participants;
- c) Sixteen procurement implementation tools were developed, including guidelines and standard bidding documents. The developed guidelines include Participation of Special Groups in Procurement; Participation of Public Bodies in Public Procurement; Procurement of Capital Equipment, Materials, Products and Related Services for Development of Industries; Determination of Major and Minor Deviations; and Procurement of Conference Services from Public bodies. In addition, 10 standard tendering documents were reviewed. The tools are available on the PPRA website (www.ppra.go.tz);
- d) Thirty tailor made training sessions on Cap. 410 for 23 PEs were conducted and attended by 513 participants, compared to 338 participants from 17 PEs trained in the preceding year;
- e) Ten dissemination workshops aimed at equipping Accounting Officers, UD, Internal Auditors and Procurement Management Units with requisite knowledge of PPA and revised implementation tools were conducted and attracted 469 participants from PEs. In addition, the Authority conducted training for regional and LGAs staff and Public Finance Management Champions on amended PPA 2011. The same was attended by 12 participants;
- f) The Authority, in collaboration with the World Bank, organized and conducted the following training sessions and seminars:
 - i) Workshop on Tanzania's Procurement Data Infrastructure which was attended by 21 participants;

- ii) Workshop on Tanzania Procurement Value Chain Analysis which was attended by 30 participants; and
- iii) Business outreach seminar which was attended by 27 participants.

Advisory services

- (a) Paymaster General (PMG) was advised on 11 contracts out of 62 that were procured on emergency basis compared to 35 contracts in the preceding year. Fifty contracts, most of them were received towards end of FY, were at different stages of review;
- (b) Three firms were debarred and blacklisted from participating in public procurement compared to one firm in the preceding year; and
- (c) Disciplinary actions were recommended to competent authorities as a result of findings in five out of 28 appeal decisions received from PPAA.

Procurement Management Information System (PMIS)

PMIS facilitates online submission of procurement information to PPRA. During the year under review, PMIS was improved to accommodate new features and legal requirements on reporting. Roll out of the improved system was achieved by training 383 officers from 199 PEs compared to 423 officers from 237 PEs in the preceding FY. In addition, 449 PEs were registered to use the system indicating an increase in the number of PEs registered to the system compared to 435 PEs registered during FY 2016/17. Furthermore, PPRA conducted tailor - made training to 54 officers from three PEs.

National e-Procurement system (TANePS)

TANePS supports the entire public procurement cycle – from planning to contract management. The system was officially launched in June. Features of TANePS include user registrations, e-Tendering, e-Purchasing, e-Auction, e-Payment and e-Contract management. TANePS has notable key benefits including standardising procurement processes; effective management of procurement lifecycle through automated procurement processes; easy access of procurement information; wide supplier participation in tendering processes; simplifying procurement audit exercise; enabling enforcement of procurement law; mitigating corruption practices; reduction of time and cost in procurement process; as well as improving suppliers competitions, transparency, non-discrimination and equal treatment for all players.

Initially, the Authority started piloting TANePS in 100 selected procuring entities. The piloting of the system is done on procurement of Common Use Items and Services (CUIS) as well as medicines and medical items supplies. During the year under review, 730 suppliers of different procurement categories were registered in the system and ready to use the system.

During the year under review, the following training sessions were conducted:

- i) Twenty two staff from PPRA, Government Procurement Services Agency (GPSA), Medical Stores Department (MDS) and eGovernment Agency (eGA) attended a

workshop on Training of Trainers.

- ii) Two hundred and fifty seven staff from 81 PEs were trained for piloting the system; and
- iii) One thousand fifty six suppliers were trained on how to register into the system and use it.

Awarded Contracts by PEs

- a) Information on awarded procurement contracts received from 145 PEs represents 27 percent of 540 registered PEs. Compliance in submitting information on procurement contract awards decreased compared to the previous FY whereby 186 PEs or 34.80 percent of 533 PEs complied with this legal requirement. One hundred and forty five PEs submitted to PPRA information on volumes of awarded contracts worth TZS 3,217.39 billion. The figure included TZS 2,759.50 billion or 84.4 percent of awarded contracts by 15 PEs with the highest volumes of expenditure (from TZS 20 billion and above);
- b) Out of 15 PEs with the highest annual procurement expenditure, four, namely; Tanroads, TRC, Tarura and Tanesco accounted for 81.5 percent of the total expenditure by the big spenders; and
- c) According to the submitted information 33,403 contracts with a total value of TZS 123.28 billion were concluded through Minor-Value Procurement; 21,962 contracts with a total value of TZS 165.912 billion were concluded through Mini-competition (Framework contracts) and 20,939 contracts with a total value of TZS 2,981.51 billion, were concluded through other procurement methods.

Compliance audits

- a) PPA CAP 410 mandates PPRA to conduct procurement audits during tender processing, contract implementation and after contract execution. Based on the criteria for selection of PEs to be audited, PPRA planned to carry out procurement audit to 81 PEs including 13 PEs whose volume of procurement were above 20 billion. However, due to budget constraints, the plan was revised and the number of PEs audited was reduced to 60 PEs. The audited PEs comprised of 19 MDAs, 19 LGAs and 22 PAs. The total number of all sampled and audited procurement contracts was 3,763 with a total value of TZS 805.68 billion;
- b) The procurement audits covered 171 works contracts worth TZS 436.85 billion, 339 goods contracts worth TZS 270.99 billion, 97 consultancy services contracts worth TZS 51.36 billion, 227 non-consultancy services contracts worth TZS 27.61 billion, 2,929 minor-value contracts worth TZS 18.87 billion, and one tender for disposal of public asset worth TZS 81.22 million. Out of all audited procurement contracts, 612 contracts worth TZS 403.72 billion or 50 percent in terms of value, were from 11 big spenders;
- c) Out of the 60 audited PEs, 58 PEs were assessed for compliance. The outcome of the assessment indicated an average compliance level of 74 percent which is the same average compliance level achieved for the previous FY. However, the recorded

compliance level is below the targeted level of 80 percent that was set for FY 2017/18;

- d) Eleven big spenders out of 60 audited PEs with total volume of TZS 403.72 billion or 50 percent of the total value of audited procurement were assessed to have an overall compliance level of 72 percent. This is below the target level of 80 percent set for FY 2017/18; and
- e) Analysis of the compliance assessment indicated that 21 PEs had satisfactory compliance levels (80 percent or above) while 30 PEs had fair compliance levels (between 60 and 80 percent, 60 inclusive). Seven out of 58 assessed PEs or 12.1 percent, were observed to have poor compliance levels (below 60 percent).

Value for money audits

- a) PPRA conducted Value for Money (VfM) audits on 199 procurement contracts worth TZS 470.03 billion out of the 3,763 audited procurement contracts. Among them, 51 were construction projects worth TZS 326.33 billion, 67 were goods contracts worth TZS 99.12 billion, 55 were consultancy contracts worth TZS 32.27 billion and 26 were water supply projects worth TZS 12.31 billion. Out of 199 audited projects, 172 projects or 86.4 percent worth TZS 380.11 billion were assessed to have satisfactory performance (75 percent or above). Twenty four projects or 12.1 percent of all 199 audited projects worth TZS 89.61 billion, were assessed to have fair performance (between 50 and 75 percent, 50 inclusive) while three out of 199 audited projects or 1.5 percent worth TZS 311.67 million had poor performance (below 50 percent);
- b) The overall VfM performance of all PEs for all the audited projects was **84.1 percent** which is satisfactory. The score indicates improvement compared to previous year's performance of 82.5 percent for 81 PEs audited; and
- c) Assessment of VfM audit results in terms of performance of PEs indicated that five PEs or 12 percent, had fair performance while 36 PEs or 88 percent, had satisfactory performance. The assessment results in terms of PEs categories indicated that 19 LGAs, eight PAs and nine MDAs had a satisfactory performance while four PAs and one MDA had a fair performance;

Assessment of corruption

In the course of carrying out compliance and VfM audits, the level of corruption likelihood in various projects/contracts was assessed. PEs which scored 20 percent or above on red flags were deemed to have a likelihood of corruption.

- a) The results revealed that 13 PEs had corruption symptoms in their procurement processes as they scored 20 percent or above in their overall score and/or in phases. The results revealed that four PEs namely; KADCO (Kilimanjaro International Airport), Mkwawa University College of Education (MUCE), Kariakoo Market Corporation and Ministry of Education, Science and Technology (MoEST) had high corruption likelihood as they scored 37 percent, 34 percent, 38 percent and 22.6 percent, respectively. The assessment further revealed that nine PEs indicated a high likelihood of corruption in some stages of their procurement processes. The referred

PEs are Bank of Tanzania (BOT), Tanzania Airports Authority (TAA), Kilimanjaro Christian Medical Centre (KCMC), Tanzania Railway Limited (TRL), Tanganyika Planting Company (TPC), Musoma MC, Bukoba MC, Temesa and National Social Security Fund.

- b) Ninety eight projects and/or contracts from 30 PEs were observed to have a high likelihood of corruption in all phases or in pre bid phase, evaluation and award phase or in contract management phase. The referred PEs were BOT, TAA, Korogwe TC, KADCO, Mkwawa University College of Education, TRL, Kariakoo Market Corporation, Musoma MC, and Bukoba MC. Other PEs were the Ministry of Information, Culture, Arts and Sports, Ruangwa DC, Babati TC, Singida MC, TanTrade, Temesa, TPA, Tanzania Film Board, Tanesco, and Tanzania Tourists Board. Others were the Higher Education Students' Loans Board (HESLB), Tanzania Institute of Education, MSD, TPC, Songea MC, Bariadi TC, the Vocational Education and Training Authority (VETA), KCMC, Njombe TC, NSSF and MoEST. Out of 98 projects/contracts, 31 had an overall high likelihood of corruption, 39 contracts had a high likelihood of corruption in the pre-bid phase, 34 contracts had a high likelihood of corruption in evaluation and award phases, and 67 contracts had a high likelihood of corruption in contract management phase.

Recovery of overpayments made in FY 2014/15 - 2016/17

PPRA issued directives to the effect that PEs should ensure recovery of monies that were overpaid to contractors in FY 2014/15 - 2016/17. The overpayments had been discovered by PPRA during procurement audits in respective years. PEs that were found to have overpaid were directed to recover the monies from respective service providers/contractors and submit to PPRA evidence of recovery.

At the end of the year under review, only TZS 370.03 million was recovered out of TZS 2,309.48 million that had been overpaid for the three financial years of 2014/15, 2015/16 and 2016/17. Thus, the total amount of unrecovered overpayments was TZS 1,939.45 million for the three consecutive financial years.

Investigations and special audits

- a) PPRA conducted six investigations from six PEs involving 34 tenders. The procuring entities were Sumatra (one tender), National Institute for Productivity (NIP) (one tender), Rural Energy Agency (REA) (four tenders), Dar es Salaam Institute of Technology (DIT) (eight tenders), Tanroads Arusha (15 tenders) and MoEST (five tenders). The value of the contracts involved in the investigations was TZS 1.004 trillion. Furthermore, PPRA conducted special audits on six PEs involving selected tenders/projects to assess value for money on implemented projects. In the six audited PEs, 29 tenders were audited. These related to NSSF (10 tenders), Ministry of Agriculture (10 tenders), National Housing Corporation (NHC) (3 tenders), Prime Minister's Office – Private Sector Competitiveness Report (PMO – PSCP) (3 tenders), MUCE (2 tenders) and HESLB (1 tender). The total value of all 29 audited tenders was TZS 371.97 billion. Thus, the total value of the contracts involved in the investigations and special audits was TZS 1,375.85 billion.

- b) Investigations and special audits revealed that the Government would suffer a loss to the tune of TZS 23.7 billion due to application of inappropriate procurement and contract management procedures by PEs. In addition, the Government could save TZS 13.84 billion had PEs implemented PPRA directives. The saving is from double taxation of VAT that was included in payments to contractors, wrong computation of contract values, and savings from suppliers who were paid without delivering goods.

Special audit on maintenance and repair of vehicles by Temesa

Assessment of efficiency in maintenance of Government vehicles by Temesa and/or the prequalified private garages was conducted for the purpose of determining how best the services were rendered. The assessment covered capacity of Temesa/prequalified private garages in carrying out maintenance repairs in terms of manpower, financial capability, quality, time, cost and technological issues.

- a) The assessment revealed that Temesa had inadequate manpower to carry out maintenance of vehicles. Modern vehicles use computer diagnosis while Temesa had not trained sufficient number of its staff to handle such vehicles. Moreover, there was insufficient technical staff to support the provision of services. A survey made at MT Depot revealed that the ratio of Engineers: Technicians: Artisans was 2:10:15 indicating that more artisans were needed. Likely, the assessment made in terms of equipment revealed that there was a gap in terms of technological component in carrying out maintenance of motor vehicle, thus Temesa needs state of the art equipment in engine diagnostics, overhaul and assembly;
- b) The assessment revealed continuous complaints regarding the quality of services offered by Temesa. The services are not trustworthy due to the fact that materials used are of low quality resulting into immediate breakdown after carrying out maintenance or repairs. In case such cases are reported, PEs are charged again to pay for the fault that is not theirs;
- c) There have been various complaints from PEs regarding the quality of services rendered by prequalified service providers due to continuous breakdowns after carrying out the services, high costs for carrying out services, and the use of substandard oils and spare parts; and

The audit revealed serious delays by PEs to pay Temesa or prequalified service providers thus affecting performance of the maintenance system. It was also observed that Temesa delayed paying the service providers after acquiring spares and lubricants. This was mainly caused by PEs' late payment for services.

Assessment fuel acquisition by PEs

Procurement audits conducted during the year assessed the procedures used by PEs in fuel acquisition and consumption whereby a number of common weaknesses were observed to most of audited PEs. The common weaknesses included Inconsistence in filling logbooks where some mileages covered were not captured in the logbooks as an evidence to justify the consumption of fuel; PEs not preparing periodic progress reports on fuel consumption;

ledger books for fuel consumption not properly filled in to accommodate all relevant information on quantities of fuel issued per vehicle; and Unjustifiable high rate of consumption for some vehicles as compared to the normal consumption rate set out.

Assessment of efficiency in procurement process

The assessment of efficiency in procurement process of various tenders floated by PEs was done on 23 PEs and covered 143 tenders. The assessment aimed at determining the time deployed by PEs to process tenders from initiation of requirement by user departments to the signing of procurement contracts.

- a) The assessment revealed that an average time taken for the whole procurement cycle from submission of requirements by user department to contract signing was 150 days for an open and competitive tender compared to an average time taken from best practice which is 116 days.
- b) The assessment further revealed that the stages which had excessive delays included Time taken for preparation of bidding documents and requests for proposals before the same were approved by TB; Time from approval of the adverts to the date of advertising tender opportunities; Time from receipt of evaluation report, review and preparation of evaluation summary by PMU to submission of the same to TB; Time from approval of evaluation report by TB to issuance of letter of intention to award the contract to bidders; Time from issuance of the letter of intention to award to the time of issuance of letter of acceptance; and Time from the issuance of the letter of acceptance (award) to the successful bidders to the date of signing the contract.

Monitoring and procurement audit of Public-Private Partnership (PPP) projects

During the year under review, PPRA, in consultation with PPP Centre, prepared the guideline for monitoring of PPP Projects. The guideline was prepared in line with the mandates given under Regulation 96 of PPP Regulations, 2015 with the objective of providing a road map and guidance to PPRA in monitoring and auditing of PPP projects and/or contracts. The guideline covers two main areas namely the monitoring of PPP projects by PPRA and procurement auditing of PPP projects.

Outreach Capacity and Visibility

The procurement audit report for FY 2016/17 containing the list of PE with projects with high corruption red flags was submitted to PCCB for further investigation;

- a) Four investigation reports on REA, MoEST, Tanroads - Arusha and PMO - PSCP were submitted to PCCB for further investigation as they were observed to have signs of corruption. The submitted reports included the following projects/tenders: Procurement for Supply and Installation of Medium and Low Voltage Lines, Distribution Transformers and Connection of Customers in Un-Electrified Rural areas in Mainland Tanzania on Turnkey Basis; Procurement of Printing Machine; Procurement of Equipment for Students with Disability; Procurement of Chemicals

and Laboratory Equipment for Teachers Training Colleges; Procurement of Furniture for Lecture Theatres; Procurement for construction of Monduli – Engaruka Road and Matala – Njiapanda Road and Construction of Bridge at Njiapanda – karatu – Kilimapunda Road in Arusha; Procurement for Supply and Installation of Structured Cabling System; procurement for Supply and Installation of Core Data Center Equipment at the Ministry of Lands, and Housing and Human Settlements Development;

- b) PPRA participated in one interactive live TV programme and Sabasaba exhibition;
- c) The Authority prepared simplified popular version of APER in Kiswahili for FY 2016/17, which was translated into English. Four thousand copies of the popular version and 2,000 cartoon books were disseminated through various public events including workshops, exhibitions and seminars; and

The Authority participated in the 10th East African Procurement Forum held in November 2017 in Kampala. The theme for the event was "*Leveraging Technology for Improved Procurement Outcomes*". Eleven Tanzanian delegates consisting of five PPRA officers , three officers from Zanzibar Procurement Authority, two GPSA officers and one officer from World Bank Tanzania Office attended the forum.

Directory of PEs

PPRA maintains a directory of PEs for reference purposes. During the year under review, the number of PEs listed in the directory was 540 compared to 533 in FY 2016/17. The directory was updated based on information received from PO-PSGG, PO-RALG, National Audit Office (NAO), office of Treasury Registrar, PEs and from the government website.

More information can be viewed from the Authority's website <https://www.ppra.go.tz>.

(b) Observations on the implementation of the article

To enhance procurement practices, Tanzania has adopted the Public Procurement Act and the Public Procurement Regulations. The applicable principles foster transparency, competition, openness, integrity and fairness.

The Public Procurement Regulatory Authority (PPRA) is mandated to monitor and report on the performance of the procurement systems in over 540 procuring entities in Tanzania, to monitor the award and implementation of public contracts, and to institute procurement, contract and performance audits.

Tanzania's procurement procedure clearly recommends competitive procurement methods. Other tendering methods may be used in specific circumstances as provided in relevant PPRs and subject to the approval of tender boards. The criteria for participation, including the selection of bidders, are specified in the tender documents or pre-qualification documents. The procurement law requires procuring entities to provide sufficient time for the preparation and submission of tenders. Procuring entities are required to submit tender award information to the Authority for publication in the Journal and Tenders Portal, among other channels.

Moreover, for the purpose of preventing corruption, the PPRA in collaboration with PCCB and other law enforcement institutions signed a memorandum of understanding (MoUs) for exchanging procurement information and reports.

It is positively noted that, in order to curb corruption, suppliers and service providers participating in public procurement are required by law to sign an anti-bribery policy to commit themselves that they will not indulge in corruption practices. Likewise, evaluation committee members and Tender Board members are required to sign codes of conduct before commencing the evaluation exercise or award deliberation for the same purpose and to declare that they do not have a conflict of interest, which may affect their decision-making. Furthermore, contractors, service providers and suppliers may be debarred from eligibility for public contracts for a certain period when proved that they have engaged in fraudulent practices. Certain acts in violation of procurement rules may also give rise to criminal liability (section 104 of the PPA). A system of review and appeal has been established.

Procurement decisions are audited by the PPRA and the National Audit Office. Each year, the PPRA audits a sample number of procurements selected at random to detect any corruption acts or irregularities.

At the same time, Tanzania identified several challenges to achieve full implementation of the provision. Due to the limited number of monitoring and audit staff and limited implementation of electronic procurement systems, the PPRA audits less than 20 percent of procuring entities every year. Similarly, there is a lack of capacity to detect and investigate procurement violations and most violations are reported by whistleblowers. For example, the PPRA investigated and forwarded to the PCCB 25 irregularities in procurement in the past 3 years. Tanzania has requested technical assistance under this provision.

Tanzania has developed appropriate legislation to enhance transparency, competition and objective criteria in public procurement and to prevent corruption. **However, it is recommended that Tanzania take further measures to implement the provision in practice by, *inter alia*, 1) improving monitoring and auditing of procuring entities and their procurement decisions, 2) improving the capacity of authorities to effectively detect and investigate violations of procurement rules, 3) raising awareness of corruption risks among other stakeholders such as suppliers and service providers, and 4) continuing to implement and strengthen the electronic procurement system.**

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*

- (d) *Effective and efficient systems of risk management and internal control; and*
(e) *Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.*

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Steps taken by the Government of Tanzania to ensure compliance with this provision of the Convention are:

- Enactment of the Budget Act, 2015 and its regulations
- Discussion, deliberation and approval of the National Budget by the Parliament
- Existence of the Supreme Audit Institution, i.e. the National Audit Office of Tanzania since independence
- Enactment of various laws which govern auditing, accountability and reporting such as the Public Finance Act 2001, the Local Government Finance Act and the Public Audit Act, 2008
- Establishment of risk management department within each MDA
- Appointment of a Parliamentary Oversight Committee
- Public auditing is done under International Audit Standard (IAS) and Supreme Audit Institution Standards

The following information is provided on the MoF website in respect of the budget process².

Budget Formulation

The budget estimates are formulated in line with detailed macroeconomic forecasts on future growth, inflation and external sector (import) trends. Donor/Government consultations assist the budget process by confirming donor financial commitment in the budget. These discussions take place between MoF, sectors and development partners.

Once the macro-policy and sectoral performance review and resource projections are completed, the government then formulates goals, objectives and budget priorities which should be achieved in the forthcoming financial year. The government has decided to focus on poverty reduction and so the Poverty Reduction Strategy (PRS) targets as reflected in the PRSP documents and progress reports become the basis of allocating resources.

The budget frame is also formulated for a longer three-year time period in a document called the Budget Guidelines (BG) or Medium Term Expenditure Framework (MTEF). This is

² <http://www.mof.go.tz/mofdocs/budget/process.htm>

prepared by a Committee which comprises representatives from the Ministry of Finance, Planning Commission, Prime Minister's Office, Civil Service Department and Regional Administration and Local Government. The Budget Guidelines contain:

- an overview of macroeconomic performance and projections
- priority sector MTEFs (prepared by Sector Working Groups in the Public Expenditure Review process), which are consistent with PRS targets and have been updated and costed;
- vote expenditure ceilings based on resource availability; and
- procedures for preparation and submission of the draft budget to the Ministry of Finance.

Scrutiny of Budget Proposals and Dialogue

The Inter-Ministerial Technical Committee (IMTC).

The IMTC, which is comprised of all Permanent Secretaries, has a role to scrutinize budget proposals before they are finally approved by the Cabinet. To facilitate the discussions, the MoF prepares a draft cabinet budget paper that covers the budget frame, the financial demands after dialogue with MDAs, the government priorities and financial implications. After a thorough review, IMTC may require the MoF to make further technical improvements on the paper or put up recommendations for consideration by the Cabinet.

Cabinet approval of Estimates.

The Cabinet budget paper is then discussed by the Cabinet after preliminary review by IMTC. The role of the Cabinet is to deliberate on the budget cabinet paper and then approve government budget proposals for the fiscal year in question before they are submitted to the legislature.

Parliamentary Sector Committees.

The process of obtaining parliamentary authorisation starts with discussions by Sector Committees. Preliminary briefs are provided by the Minister of Finance and the Minister for Planning and Privatization. MDAs' detailed budgets are then submitted to parliamentary committees for scrutiny one by one.

Public Debate and Authorisation.

After the Estimates have been reviewed by the sector committees of the Parliament, they have to be tabled to Parliament for debate and authorisation. The major events during Parliamentary debate and authorization of the government are as follows:

- Presentation of a Public Speech on macroeconomic performance and projections by the Minister for Planning and Privatization
- Presentation of the government budget proposals to Parliament by the Minister for Finance through a budget speech
- Parliamentary debates/discussions on sector estimates submitted by each minister responsible

- Parliamentary approval of estimates by passing the Appropriation Bill.
- Parliamentary approval and passing the Finance Bill that empowers the Minister for Finance to raise the money and finance the budget.

Budget Execution

Budget execution is an important stage of the budget process, as it is at this stage that actual revenue collections and service delivery take place. Execution of the budget, therefore, is about the collection and accounting for revenue, provision of services through the recurrent budget and implementation of development projects. The key documents used during implementation of the budget are Revenue and Expenditure estimates books, action and cash flow plans and budget memorandum. Main activities are:

- Release of funds by the MoF
- Collection and accounting for revenue collections by TRA and other MDAs. Accounting officers are appointed as receivers of revenue and accountable officers for expenditure in accordance with the Public Finance Act, 2001.
- Delivery of services and project implementation by institutions. This involves both government institutions and development partners. Donors are required in some cases to release funds and award of contracts.
- Maintenance of proper accounts for control and accountability
- Reporting on budget performance (both financial and physical) and evaluation
- Project inspection and expenditure monitoring

The Ministry of Finance publishes quarterly Budget Execution Reports to maintain transparency on actual use of public funds in line with the budget estimates approved by Parliament. See Budget Execution Reports

Budget Monitoring and Control

Budget monitoring, control and evaluation are necessary for closer supervision of work programmes and projects. This involves a continuous monitoring of the plans and budget in order to identify achievements and bottlenecks. Basically, monitoring, control and evaluation focuses on:

- Accountability to ascertain appropriateness of expenditure and revenue and their conformity to the authorities through financial reports.
- Management assistance for providing management with information on performance.
- Mechanisms for control and monitoring
- Periodic reporting and follow up. Specific formats have been issued for budget monitoring and follow up.
- Internal Audit

- External Audit
- Parliamentary control
- Budget Review and Adjustments
- Project inspection

However, the overall control and monitoring of public expenditure is now effected largely through an Integrated Financial Management System (IFMS). This is a computerized system which links up most of the government paying stations in Dar es Salaam. Therefore, most payments are centralized and controlled. Hardly any expenditure or commitment can be incurred without financial provision from IFMS. Major outputs from IFMS include:

- Monthly flash reports on revenue collections and expenditure
- Quarterly and annually performance reports
- Control of excess spending beyond approved budgets
- Specific reports based on user requirements

In addition to IFMS Tanzania has established sub-treasuries in all the regions for processing payments from decentralized government ministries and regions. Efforts are underway to establish sub-treasuries in all the regions.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics were provided.

(b) Observations on the implementation of the article

Tanzania has taken a number of steps to introduce transparency and accountability in the management of public finances. There is a comprehensive framework to regulate the formulation of the state budget and a set of measures to enable risk management and internal control of public finances in public bodies.

During the country visit, Tanzania further explained that the periodic outputs from IMFS on budget performance were not public. The risk management system largely consists of Accounting Officers in each MDA who are responsible for the correct and efficient use of public resources in their institutions and establishing appropriate systems of control and risk management to achieve it (s. 2 of the Budget Act and s. 33-35 of the Local Government Finance Act). In addition, the National Audit Office conducts audits of public bodies.

The Budget Act 2015 sets out general requirement for risk management and internal control in sections 50-53. Internal auditors further issue standards for risk management frameworks. However, it was explained that this area was an evolving issue and not every MDA had risk management experts. Furthermore, the Budget Act applies to Mainland Tanzania only.

When issues are detected from external auditing, the Audit Office communicates them to PCCB and other appropriate bodies.

Based on the above, it is recommended that Tanzania take steps to ensure that appropriate systems of risk management and internal control are established in every MDA and that the information on budget execution, including revenue and expenditure, is timely and periodically reported in a clear and accessible manner. The latter was one of the commitments under Tanzania's Open Government Partnership National Action Plan 3 (2016/17-2017/18).

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Auditing, Accountability and reporting

- Existence of Parliamentary Committees such as the Public Audit Committee (PAC) and the Local Authority Audit Committee (LAAC)
- Discussion, deliberation and approval of the National Budget by the Parliament
- Miscellaneous Amendment of Laws

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

There are no written statistics; however, the budget is debated by the National Assembly. Auditing findings are reported to the National Assembly and law enforcement agencies for them to curb corruption. The same are also reported to the institution under audit, for it to cure the loopholes identified.

(b) Observations on the implementation of the article

During the country visit, Tanzania clarified that the integrity of records relating to public finances was preserved by a number of measures. First, the authorities referred to the Records and Archives Management Act of 2002 that regulates the use and storage of all

records of public bodies and provides that destruction of such records is an offence. Falsification of such records is a crime of forgery pursuant to the Penal Code and also a violation of the Code of Ethics and Conduct for the Public Service. Tanzania is in compliance with the provision under review.

(c) Challenges, where applicable

Budget constraints for carrying out trainings of procurement staff.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has implemented the article under review as follows:

- The Constitution of the United Republic of Tanzania 1977 under Article 18 (b) and (d) guarantees the rights to find and be given information on social life.

Constitution of the United Republic of Tanzania 1977

18. Every person

(a) has a right to seek, receive and, or disseminate information regardless of national boundaries; ...

(d) has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society.

- Accordingly, Government activities are communicated to the public through public relations officers in Government offices.
- Tanzania's e-Government Agency (eGA) is established under the Executive Agencies Act, Cap. 245 as a semi-autonomous institution. eGA is charged with the mandate of providing coordination, oversight and provision of e-Government initiatives and enforcement of e-Government standards to public institutions.
- Through this, the Government offices provide full information on their websites, showing how they operate. See this website for ease of reference <http://www.ega.go.tz/>.
- In addition, many public agencies such as the PCCB and the PPRA also issue annual reports concerning their operations and financial position.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

- The PCCB has a Public Relations Officer, who among other things is tasked to provide information to the public regarding PCCB activities.
- Also on the PCCB website, various information is given for providing knowledge to the public, among other things on how to report corruption incidences.

(b) Observations on the implementation of the article

Tanzania has adopted the Access to Information Act No. 6 of 2016, which was passed into law on 7 September 2016. Legislation enabling public access to information was a flagship commitment of Tanzania's Open Government Partnership (OGP) Action Plan for 2014-2016.

The Act gives citizen the right of access to information which is under the control of public authorities, as well as private bodies which utilize public funds or are in possession of information that is of significant public interest (sections 2, 5). Such entities are required, subject to other written laws, to make available to the public or, on request, to any person, information which is under their control, unless the information is exempt or disclosure is not justified in the public interest (section 6). The types of information that are exempt are listed in section 6 of the Act. The Act further requires all public agencies to appoint one or more information officers to deal with requests for information and render assistance to persons seeking such information (section 7).

The Act requires public agencies, within 36 months from commencement of the law, to publish a description of their structure, functions and responsibilities, including those of any statutory officers or advisory committees, and a general description of the types of information held by them, as well as particulars of the information officer to whom requests for information shall be sent (section 9). Public agencies are further required to maintain records of information that is under their control for thirty years from the date on which the information was generated or came under their control (section 8). The Procedure for access to information is spelled out in section 10.

A person who, having made a request for information, is aggrieved by the public

authority's decision in relation to the request, may apply to the head of institution for review of the decision and may thereafter appeal to the Minister responsible for legal affairs, whose decision is final (section 19). Insofar as appeals are not handled by the courts or by an independent authority or Information Commission, but by the Minister, this would appear to make it difficult to appeal against a decision by the government to withhold information.

Finally, it is noted that the penalty for wrongly releasing information is severe – three to five years' imprisonment – while there are no penalties mentioned for wrongly withholding information.

However, during the country visit, Tanzania clarified that the Act had not been operationalized yet and no awareness raising campaigns on the operation of the Act had been conducted. Furthermore, it was noted that the Act applies to Mainland Tanzania only.

Although Tanzania has legislatively implemented the provision under review, **it is recommended that Tanzania ensure that the Act is operationalized and that public bodies, members of the public and other stakeholders are aware of its requirements and enforcement mechanisms.**

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please refer to the responses provided under article 10 (a) above.

Please provide examples of the implementation of those measures, including related

court or other cases, available statistics etc.

Please refer to the responses provided for article 10 (a) above

(b) Observations on the implementation of the article

Tanzania has undertaken a number of public service management reforms with a focus on enhancing quality, efficient and effective public service delivery. Among the notable reforms focusing on improving public service delivery are the Civil Service Reform Programme (CSRPF) and the Public Service Reform Programme (PSRP) launched in 1991 and 2000 respectively and which ended in 2017, as well as the Local Government Reform Programme (LGRP) launched in 2000. One of the main objectives of these reforms was to improve service delivery to the public, according to the Tanzania Government Poverty Reduction Strategy (TGPRS).

It is also notable that Tanzania's e-Government Agency, established under the Executive Agencies Act, is further charged with the mandate of providing coordination, oversight and provision of e-Government initiatives and enforcement of e-Government standards to public institutions. The Agency is also responsible for enhancing infrastructure platforms to deliver electronic services to citizens and businesses among others.

Tanzania updated the review team during the country visit that it had established a number of one-stop centers to improve service delivery, for example in the Tanzania Revenue Authority, the land register at the Ministry of Lands and the companies registry, the Business and Registration Licensing Agency.

Tanzania has taken a number of steps to implement the provision under review and continuation of its efforts to simplify relevant processes and procedures is recommended.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

- Section 4 (2) (a) of the Prevention and Combating of Corruption Act No. 11 of 2007 (PCCA) provides the institutional and legal framework for preventing and combating corruption by examining public institutions and identifying corruption risks. The section reads as follows:

4. Objective of the Act.

(1) The objective of this Act is to provide for promotion and enhancement of good governance and eradication of corruption.

(2) In the promotion of the objectives referred to under subsection (1), this Act provides an institutional and legal framework necessary for prevention and combating corruption by –

(a) examining and advising on practices and procedures of public, parastatal and private organisations, in order to facilitate the detection of corruption or prevent corruption".

- The PCCB, in compliance with the above provision, in tandem with the provision of section 7(a) of the PCCA, has established the Directorate of Research and Control, which deals with examining the systems of offices mentioned in the above provision.

"7. Functions of the Bureau

Functions of the Bureau shall be to take necessary measures for the prevention and combating of corruption in the public, parastatal and private sectors and in that regard, the Bureau shall--

(a) examine and advise the practices and procedures of public, parastatal and private organisations, in order to facilitate the detection of corruption or prevent corruption and secure the revision of methods of work or procedure which appear to add to the efficiency and transparency of the institution concerned".

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

For the year 2015/2016, the PCCB has conducted corruption risk assessments in three sectors, namely, Police, Judiciary and Land sector.

(b) Observations on the implementation of the article

It is noted that PCCB has the authority to conduct corruption risk assessments and has conducted three assessments in 2015-2016. It was explained by the PCCB that the reports produced following these assessments have been made public.

Tanzania has requested technical assistance in this regard.

(c) Challenges, where applicable

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

The challenges for the implementation of the article under review includes the following:

- Lack of resources (funds) to support research activities and publication of reports
- Lack of funds to support training on research matters

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Measures/steps the country has taken to ensure compliance include:

Constitutional and Legal Framework

The Constitution of the United Republic of Tanzania of 1977 guarantees independence of the judiciary (See Article 107A and 107B). The Judiciary Administration Act, No. 4 of 2011 provides for requirements for judicial integrity and independence.

Constitution of the United Republic of Tanzania of 1977

107A.-(1) The Judiciary shall be the authority with final decision in dispensation of justice in the United Republic of Tanzania.

(2) In delivering decisions in matters of civil and criminal nature in accordance with the laws, the court shall observe the following principles, that is to say -

- (a) impartiality to all without due regard to one's social or economic status;
- (b) not to delay dispensation of justice without reasonable ground;

- (c) to award reasonable compensation to victims of wrong doings committed by other persons, and in accordance with the relevant law enacted by the Parliament;
- (d) to promote and enhance dispute resolution among persons involved in the disputes; and
- (e) to dispense justice without being tied up with technicalities provisions which may obstruct dispensation of justice.

107B. In exercising the powers of dispensing justice, all courts shall have freedom and shall be required only to observe the provisions of the Constitution and those of the laws of the land.

Codes of Conduct and Disciplinary Mechanism

- The Code of Conduct for Judicial Officers of Tanzania, made in compliance with the Bangalore Principles of Judicial Conduct, describes the requirements guiding the conduct, integrity and ethics of judicial officers.
- The Judiciary Administration Act No. 4 provides for disciplinary mechanisms of judicial officers.
- The Judicial Service Commission is responsible for the overall conduct and ethics of judicial officers. Under the Commission there are 4 Judicial Officers Ethics Committees namely:
 - Judges Ethics Committee for Judges - For judges of the High Court and Court of Appeal. In accordance with article 37 of the Judicial Service Act No 4, 2011, the Judges Ethics Committee shall be composed of the following members: (a) a Justice of Appeal appointed by the Chief Justice who shall be the Chairman; (b) three Justices of Appeal appointed by the Chief Justice; (c) three Judges of the High Court appointed by the Chief Justice. (3) The Registrar of the Court of Appeal shall be the Secretary of the Committee. (4) Members of the Committee shall hold office for three years but shall be eligible for re-appointment for one further term. (5) The Committee shall not delegate the performance of any function or the exercise of any power to any person. (6) A Justice of Appeal, the Principal Judge or a Judge against whom a complaint has been served shall not participate in the sitting of the Committee which determines that complaint.
 - Judicial Officers Ethics Committee - For all judicial officers except judges
 - Regional Judicial Ethics Committee - For magistrates at the Resident Magistrate Court and the District Court
 - District Judicial Ethics Committee - For magistrates in the Primary Court

These Committees conduct disciplinary proceedings against judicial officers and report to the Commission with recommendations on other disciplinary measures depending on the findings.

Measures to increase transparency and accountability in deployment

Recruitment of judicial officers is done by open advertisement. An independent selection committee conducts the selection of qualified applicants, and open interview is done by an independent committee. Candidates for magistracy who pass the interview are employed by the Judicial Service Commission while candidates for judgeship are recommended to the President for vetting and appointment as judges.

Training

Annual training programs are prepared and issues of integrity ethics and code of conduct are always incorporated in the program.

Before they assume office upon first appointment, judges and magistrates receive induction training on how they should behave as judicial officers.

Political conflict of interest

In accordance with article 113A of the Constitution and by law, judicial officers are not allowed to engage in politics or to be members of any political party.

Assets declaration

Judicial officers are bound to declare assets by filing annual asset declaration forms, which are submitted to the Ethics Secretariat. The code of conduct prohibits judicial officers from engaging in economic activities, which are inconsistent with judicial office.

Transparency in court processes.

The public and the media are free to access court proceedings without any obstacles. They are free to report on the progress. Court judgments and rulings are free to the public. Some are published on website and may be accessed in hard copy at the court by any person. Tanzania has established a procedure of distributing judgments and court proceedings to the parties to the court through courier services.

Outreach measures have taken to enhance transparency by affixing posters in every court premises and premises of Regional Commissioners and District Commissioners who are the chairpersons for ethics committees. The posters display phone numbers of all venues to which customers can complain when they encounter any kind of mistreatment especially corruption. Mobile telephone numbers from the following offices have been displayed:

- Offices of ethics committees
- Prevention and Combating of Corruption Bureau (PCCB)
- Complaint desks for all court levels
- Central headquarters complaint phone number.

Telephones are distributed in the court stations to receive complaints from customers.

Case assignment and distribution

Case assignment is done by judges or magistrates in charge based on individual calendars for the purpose of accountability. Automatic assignments are under consideration.

Number of Judges

There is a special court established by law to determine economic crime and corruption cases.

21 judges have been trained and assigned to sit in the court at Dar es Salaam and in its sub-registries in other High Court registries.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Examples of the implementation of these measures.

Cases which led to disciplinary measures include:

- Corruption
- Conduct inconsistent with judicial office
- Absenteeism causing failure to perform judicial duties in time
- Failure to perform judicial duties according to the oath

Statistics and sanctions

From July 2016 to June 2017, a total of 12 judicial officers have been dismissed due to violation of their code of conduct while 2 have been interdicted.

The Reports

Corruption Mapping - This is a study which is being done under one of the initiatives in the strategic plan is scheduled for release under the 2018-2019 budget.

Apart from corruption mapping the following reports are used by the judiciary to identify its ethical dilemmas and corruption risks:

- Clients satisfaction survey for the judiciary conducted in 2014
- The mini surveys conducted during the Law weeks of 2015 and 2017 on the client's satisfaction.
- Afro Barometer report
- Min Court user Survey – March 2018
- Transparency International reports

Judicial Officers facing Criminal Proceedings

In 2017, more than 30 judicial officers faced criminal proceedings and were interdicted

pending conclusion of proceedings. 22 officers were dismissed despite having been acquitted in court.

(b) Observations on the implementation of the article

Tanzania has taken a number of measures to implement the provision under review through the adoption of a constitutional and legal framework, implementation of codes of conduct and disciplinary mechanisms, enhancing transparency and accountability in deployment of judicial officers, placement of rules and procedures for judicial officers etc. The violation of these rules entail disciplinary sanctions or even criminal punishment, and statistics on the practical application of these measures were provided.

Tanzania is in compliance with this provision.

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The prosecution service in Tanzania is governed by the following laws:

- The Constitution of the United Republic of Tanzania 1977. Article 59 (1) creates the office of the Attorney General. Article 59B creates the office of the Director of Public Prosecution.

The Constitution of the United Republic of Tanzania 1977

59.-(1) There shall be the Attorney General for the Government of the United Republic, who in the subsequent Articles of this Constitution, shall simply be referred to as the "Attorney-General" who shall be appointed by the President.

59B.-(1) There shall be a Director of Public Prosecutions who shall be Public appointed by the President from amongst persons with qualifications specified in Prosecutions subarticle (2) of Article 59 and has continuously held those qualifications for a period of not less than ten years.

(2) The Director of Public Prosecutions shall have powers to institute, prosecute and supervise all criminal prosecutions in the country.

(3) The powers of the Director of Public Prosecutions under subarticle (2), may be exercised by him in person or on his directions, by officers under him or any other officers who discharge these duties under his instructions.

(4) In exercising his powers, the Director of Public Prosecutions shall be free, shall not be interfered with by any person or with any authority and shall have regard to the following –

- (a) the need to dispensing justice;
- (b) prevention of misuse of procedures for dispensing justice; and
- (c) public interest.

(5) The Director of Public Prosecutions shall exercise his powers as may be prescribed by any law enacted or to be enacted by the Parliament.

- The National Prosecution Services Act No. 27 of 2008, and
- The Attorney General (Discharge of Duties) Act 2005.

Issues of discipline of prosecutors are dealt with by the Deputy Director of Public Prosecutions established under G.N. No. 49 of 2018.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics provided.

(b) Observations on the implementation of the article

Tanzania explained during the country visit that the Public Service Act and relevant Public Service Regulations also apply to the staff of the National Prosecution Service (NPS) and the Office of the Attorney General.

In respect of prosecutorial discretion, the following information from Tanzania's first cycle review is noted:

The PCCB has jurisdiction to prosecute cases under Section 15, PCCA without the consent of the Director of Public Prosecutions (NPS). For all other cases, the consent of the DPP is required. The decision to prosecute is taken by the DPP without external interference (Section 11, Prosecution Services Act). An aggrieved complainant may challenge a decision not to prosecute. Reviewers noted that if the prosecution powers of the PCCB were extended, some form of external oversight would be needed. Prosecution guidelines exist for State Attorneys, prosecutors and the PCCB.

Tanzania has implemented the provision under review.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including 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, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with these provisions?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.

- Section 46 of the Prevention and Combating Corruption Act No. 11 of 2007 (PCCA) creates the avenue for cooperation between the Prevention and Combating of Corruption Bureau (PCCB) and the private sector. Currently the PCCB cooperates mainly with banks and financial institutions, NGOs and other private

entities.

- Section 46 of the Act provides thus:

The PCCB shall establish and maintain, a system of –

(a) Cooperation with the private sector, and in particular, financial institutions on matters relating to commissions of offences under this Act; and

(b) Encouraging the private sector to report to the Bureau the commission of an offence under this Act.

- Through the above provisions, the PCCB has conducted workshops with financial institutions, NGOs and the private sector as a whole. This cooperation has enhanced public awareness of corruption. The private sector reports various corruption incidences to the PCCB.

In Tanzania, all companies are required by the Companies Act of 2002 to prepare financial statements, either in English or Swahili, in compliance with the regulations prescribed by the Ministry of Finance and Planning of Tanzania (MoFP) or the National Board of Accountants and Auditors (NBAA).

The President's Office together with the private sector have developed an Integrity Pledge where any person who incorporates a company must sign the Pledge that prohibits company directors and shareholders from engaging in corrupt transactions.

The NBAA, which was established under the Auditors and Accountants (Registration) Act No. 33 of 1972 and operates under the supervision of the MoFP, sets the applicable accounting and auditing standards in Tanzania. The NBAA adopted IFRS and IFRS for Small- and Medium-sized Entities (SMEs) for application in Tanzania without modifications and including effective dates in 2004 and 2010, respectively

The responsibilities of the NBAA are to: (i) set applicable corporate accounting and auditing standards for application in the jurisdiction; (ii) establish initial and continuing professional development and ethical requirements; (iii) operate a quality assurance review system and an investigative and disciplinary system; (iv) certify authorized and approved professional accountants; and (v) maintain and publish a registry of authorized and approved professional accountants.

Auditors in Tanzania are regulated by the NBAA. Banks and other financial institutions must further appoint an auditor who is registered with the Bank of Tanzania (BOT).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics availed.

(b) Observations on the implementation of the article

Tanzania has provided a few examples of the implementation of the provision. Law enforcement agencies regularly cooperate with the private sector on corruption prevention issues. In particular, PCCB has conducted workshops with financial institutions, NGOs

and the private sector as a whole in order to enhance public awareness of corruption. The private sector reports various corruption incidents to the PCCB as well.

With regard to standards on corporate governance or codes of conduct for the private sector, the Bank of Tanzania has adopted bank corporate governance guidelines³. The Capital Markets and Securities Authority (CMSA) has issued Capital Markets and Securities (Corporate Governance) Guidelines, 2002⁴, applicable to publicly listed companies and other issuers of securities through the capital markets, aimed at improving and strengthening corporate governance practices by issuers and to promote the standards of self-regulation. The CMSA Guidelines cover, inter alia, disclosure of directors' remuneration and benefits, service limitations on directorships/chairmanship, and recommended corporate governance best practices.

During the country visit, Tanzania provided further information on compliance. First, it was clarified that the Companies Act 2002 and Capital Markets and Securities Act are the governing laws to regulate issues of corporate governance and internal audit. Second, there are criminal penalties available for accounting or auditing violations if these constitute crimes of misappropriation or fraud mostly. Third, in order to promote business transparency, the Business Registration and Licensing Authority maintains a register of companies and sole proprietors. However, the register contains information on the name of a company, its business nature and location only. Information on directors and their shares can be accessed for a fee. Financial information is not maintained. Also, it is noted that the Companies Act applies to Mainland Tanzania only.

There is a six-month cooling off period for public leaders provided under the Written Laws (Miscellaneous Amendment) Act No. 2 (section 62). However, there is no enforcement mechanism to ensure compliance and Tanzania is developing a regulation to address this gap. Finally, it was confirmed that the Whistleblower and Witness Protection Act 2015 applies to whistleblowers in the private sector as well.

No information on measures to prevent the abuse of subsidies or licenses for commercial activities, apart from the above-mentioned companies registry, were provided to the reviewers.

Based on the above, it is concluded that Tanzania has partially implemented the provision under review. To ensure its full implementation, it is recommended that Tanzania 1) promote the development of standards of corporate governance and codes of ethics across all business sectors and relevant professions, 2) adopt measures to prevent the abuse of subsidies and licenses for commercial activities, and 3) develop comprehensive regulations on post-employment restrictions for public officials and establish effective mechanisms to enforce such regulations.

³ Bank of Tanzania, *Guideline of Boards of Directors of Banks and Financial Institutions in Tanzania* (2008), Government Printers, Dar Es Salaam Tanzania.

⁴ <http://cmsa.go.tz/index.php/guidelines-circular>

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents;
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(N) No

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

No direct answers were available on the question; efforts are being made to have the same answered during the country visit.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

During the country visit, Tanzania confirmed that it had adopted the International Financial Reporting Standards (IFRS) for private entities, which prescribe rules regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards to prevent false accounting. However, these Standards do not extend to small and medium-sized enterprises (SMEs).

Regarding disciplinary sanctions for auditors and accountants for misconduct: Under Tanzania's Auditors and Accountants (Registration) Act No. 33 of 1972 and its amendments, the National Board of Accountants and Auditors (NBAA) is responsible for establishing an investigative and disciplinary system for all professional accountants. The

institute has established a Disciplinary and Ethics Committee to carry out the investigative and disciplinary processes.

In addition, the Auditors and Accountants (Registration) Act No. 33 of 1972 makes it a criminal offence to make any false or incorrect entry in the register or to make any statement which is false in a material particular, or which is misleading, with a view to gaining any advantage, concession or privilege under the Act.

Tanzania has partially implemented the provision. **To achieve its full implementation, it is recommended that Tanzania ensure that relevant laws and regulations effectively prohibit all acts listed under article 12(3) of the Convention.**

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

To prevent the tax deductibility of expenses that constitute bribes, Tanzania has included the following provisions/offences in its tax laws:

The Income Tax Act Cap. 332 Revised Edition 2008

[Part VIII, Division II, section 106] outlines offences for making false or misleading statements where by a person who:

- Makes a statement to the Commissioner that is false or misleading in a material particular; or
- Omits from a statement made to the Commissioner any matter or thing without which the statement is misleading in a material particular, commits an offence and shall be liable on conviction.

The East African Customs Management Act 2004 Revised Edition 2009 and its amendment 2011;

[Part XVIII, section 203] outlines offence for making or using false documents to reduce

tax reliability whereby a person in any matter relating to the customs:

- Makes any entry which is false or incorrect in any particular, or
- Makes or causes to be made any declaration, certificate, application, or other document which is false or incorrect in any particular; or
- When required in accordance with this Act to answer any question put to him or her by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto, or
- Obtains any drawback, rebate, remission in any fraud or duty which his or her knowledge he or she is not entitled to obtain, or
- In any way is knowingly concerned in any fraudulent evasion of the payment of any duty; or
- Except by authority moves, alters, or in any way interferes with any goods subject to customs control; or
- Brings into a partner state, or has in his or her possession, without lawful excuse any blank or incomplete invoice, bill head or other similar document, capable of being filled up and used as an invoice for imported goods; or
- Counterfeits or in any way falsifies, or knowingly uses when counterfeited or in any way falsified, any documents required or issued by or used for the purpose of the customs;
- Commits an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding ten thousand dollars.

Tax Administration Act 2015

[section 84] describes offences for making or using false or misleading statements or documents in tax administration; any person who, in any matter relating to the excise duty:

- Makes an entry of any building, room, place, or item of plant, which is false or incorrect in any material particular;
- Makes or causes to be made any declaration, certificate, application, return, account, or other documents, which is false or incorrect in any material particular
- When required to answer any question put to that person by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto:
- Is any way knowingly involved in any fraudulent evasion of the payment of any duty;
- Obtains any remission, rebate, or refund of duty which to his knowledge is not entitled to obtain;
- Makes any false statement or false representation in order to obtain any remission, rebate or refund, of duty;
- Acquires possession of, keeps, conceals, removes or in any way deals with, any excisable goods which have been manufactures or on which the full duties have not

been paid or;

- Counterfeits or in any way falsifies or knowingly uses when counterfeited or in any way falsifies, any document required or issued by, or used for the purposes of, the excise; commits and offence.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics provided

(b) Observations on the implementation of the article

During the country visit, Tanzania clarified that under section 11(4) of the Income Tax Act, bribes and expenditure incurred in corrupt practices is excluded from the calculation of deductions from a person's income. In addition, it was explained that bribes to foreign officials and expenditure incurred in corrupt practices abroad are not covered by section 11(4) above.

Therefore, it is recommended that Tanzania amend laws to ensure that all forms of corrupt payment or benefit, including bribes to foreign public officials, are not deductible from income for tax purposes.

(c) Challenges, where applicable

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

No technical assistance required

(d) Technical assistance needs

No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and

gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

(b) Ensuring that the public has effective access to information

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or order public or of public health or morals.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please refer to the efforts described under article 10 herein above.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

Tanzania provided additional information on compliance during the country visit.

Representatives of civil society organizations (CSO) are regularly invited to policy review exercises organized by the government. There is also the possibility of concluding memoranda of understanding between CSOs and public bodies to formalize relationships.

Civil society organizations engage in a number of activities to monitor the actions and decisions of government in potential risk areas. Tanzania referred to various projects such as Corruption Tracker, Public Expenditure Tracking, the Budget Working Group, Natural Resources Forum, and Tax Justice as examples of such CSO engagements. It was further explained that certain challenges existed with regard to CSOs' work. Restrictions on the use of data such as government statistics and a lack of understanding of CSOs' role at local authority levels often complicate the work of CSOs. To address the above issues,

public bodies issue guidelines on relations with non-state actors to encourage consideration of relevant input from non-state actors.

PCCB public information activities include a project that organizes public screenings of dramas and documentaries with corruption themes at night. Also, PCCB together with the Ministry of Education introduced classes for schools at Standard 4 on ethics. There are ongoing discussions on the introduction of the same classes in secondary schools. The University of Dar es Salaam offers a course on ethics to undergraduate students.

Tanzania is in compliance with the provision under review.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Does your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Reporting of corruption cases is done directly to the PCCB. The same can be done by calling the telephone number 113, sending an email, writing a letter or reporting in person at the nearest PCCB offices, headquarters, regions and districts.

The PCCB toll free number 113 has been expanded to all mobile subscribers.

The PCCB is known throughout the country, where it is possible for members of the public to engage its service.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

Statistics of corruption reporting trend shall be identified during the visit of reviewers. Data collection is in progress.

(b) Observations on the implementation of the article

Following the country visit, Tanzania explained that it had introduced the 'Longa Nasi' campaign meaning 'Talk to Us', which was conducted using vans with public address systems during daytime and PCCB inflatable screens to display dramas and documentaries with corruption themes at night. This campaign, apart from creating awareness on corruption, promotes corruption reporting through the PCCB Emergency Number 113 which is free of charge.

This campaign has yielded positive results since there is an increased number of reports received by the PCCB and wider use of the emergency number 113. According to PCCB Call Center statistics for the period between January and April 2018, more than 600 informers contacted PCCB daily through calls or sms.

Reporters can enjoy protections of the Whistleblower and Witness Protection Act 2015 and the PCCA, provided their reports meet the requirements of the Acts.

Tanzania has implemented the provision under review.

(c) Challenges, where applicable

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

More technology is required in both reporting and the fight of corruption in general.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The Financial Intelligence Unit (FIU) and the regulatory authorities for banks and non-bank financial institutions are required to enforce compliance in accordance with the Anti-Money Laundering Act (AMLA) and the Anti-Money Laundering Regulations. The AML regime requires banks and non-banks financial institutions to identify and verify customers' identity, establish and maintain customer records, report suspicious transaction, establish and maintain internal reporting procedures etc.

The list of entities subject to AML requirements includes banks and financial institutions, cash dealers, pension funds managers, securities market intermediaries, financial leasing entities, micro financing institutions, accountants, real estate agents, dealers in precious stones, work of arts or metals, attorneys, notaries and other independent legal professions, and customs officer.

The list of relevant regulatory and supervisory authorities includes: Bank of Tanzania, Capital Markets and Securities Authorities, Tanzania Insurance Regulatory Authority, Gaming Board of Tanzania, Social Security Regulatory Authority, Business Registration and Licensing Agency, Tanzania Investment Centre, Tanzania Communication Regulatory Authority, etc.

Section 15 of AMLA read together with Regulations 3-18 and 28-29 of the AML Regulations 2012 require reporting entities to identify and verify customers' information in order to establish their true identities (**Know-Your-Customer, or KYC**). They require customers to provide information and produce relevant identification documents for verification. The regime stipulates that identification and verification of customer information (i.e., **Customer Due Diligence, or CDD** procedures) should be undertaken or conducted when establishing a business relationship, carrying out an occasional transaction, when there is a suspicion of money laundering or terrorist financing, and when the veracity of the information initially provided is doubted.

In regards to **Beneficial Owner** identification, Section 15(4) of AMLA provides that when a reporting person wants to enter into or continue a business relationship with a customer who is acting on behalf of another person, the reporting person shall take reasonable measures to establish the true identity of any person on whose behalf, or for whose ultimate benefit, the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise.

Regulation 28(2) – 28(5) provides that a reporting person shall identify and verify the beneficial owners when establishing a business relationship or when conducting transactions or occasional transactions with its customers, such that the reporting person is satisfied that it knows the beneficial owner. Regulation 28(6) provides that a reporting person shall apply customer due diligence measures at other appropriate times to existing customers on a risk sensitivity basis.

For further information on KYC, CDD and Beneficial Ownership requirements, see article 52 below.

Please provide examples of the implementation of those measures, including related

court or other cases, available statistics etc.

Suspicious Transaction Reports received by Tanzania's FIU and disseminated to law enforcement

YEAR	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Cumulative
Received	11	15	20	57	86	139	206	390	567	1480
Disseminated to DCI	11	13	19	19	11	19	14	14	15	124
Disseminated to PCCB	0	0	0	5	3	4	6	5	7	30
Disseminated to TRA	0	0	1	4	8	23	10	14	10	70
Disseminated to NCTC	0	0	0	0	1	0	4	3	0	8
TCRA	0	0	0	0	0	0	1	1	0	2
Immigration	0	0	0	0	0	0	3	4	3	10
Drug Control and Enforcement Authority	0	0	0	0	0	0	3	1	0	4
BOT	0						0	2	0	2
CMSA	0	0	0	0	0	0	0	1	0	1
TIRA	0						0	1	0	1
TISS	0	0	0	0	0	0	0	1	0	1
ZAECA	0	0	0	0	0	0	0	0	2	2
ZRB	0	0	0	0	0	0	0	0	1	1
TOTAL		13	20	28	23	46	41	47	38	256

Foreign Requests To and From Tanzania's FIU

REQUESTS TO FOREIGN FIUS										
YEAR	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Cumulative
Number of Requests	4	1	4	14	15	25	26	20	13	122

REQUESTS FROM FOREIGN FIUS										
YEAR	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Cumulative

Number of Requests	1	1	2	3	2	3	6	16	29	63
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As of April 2018, statistics from the PCCB’s Asset Tracing and Recovery Unit (ATRU) show that a total of 5 (five) referrals from the FIU were investigated by the PCCB and the same were currently being prosecuted in the court of law.

Suspicious Transaction Reports under Investigation by Tanzanian Police

YEAR	2014	2015	2016	2017
No.	24	19	19	13

(b) Observations on the implementation of the article

Tanzania’s main AML legislation includes: The Anti-Money Laundering Act, Cap. 423 of 2006; Anti-Money Laundering (Amendment) Act, 2012; and Written Laws (Miscellaneous Amendments) (No. 2) Act, 2016. Main regulations in this area include the Anti-Money Laundering Regulations, 2012. Tanzania has also adopted Anti-Money Laundering (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016; and Prevention of Terrorism (General) Regulations, 2014. Additional legislation applies in Zanzibar, notably: the Anti-Money Laundering and Proceeds of Crime Act, No. 10 of 2009 for Tanzania-Zanzibar; Written Laws (Miscellaneous Amendment) Act No. 12 of 2011 for Tanzania-Zanzibar; and Anti-Money Laundering and Proceeds of Crime Regulations 2015 Zanzibar.

Tanzania’s domestic regulatory and supervisory regime applies to banks and non-bank financial institutions (NBFIs). Pursuant to AMLA 2006, as amended in 2012, the main categories of financial institutions are now included in the definition of “reporting persons”, to address gaps identified in the 2009 MER in respect of NBFIs⁵. As noted in the MER, the definition of “reporting persons” also includes all Designated Non-Financial Businesses and Professions (DNFBPs), except for Trust and Company Service Providers, as these services are provided by accountants and lawyers.

As detailed further under article 52, Tanzania has established KYC and CDD requirements for reporting persons. Key elements in the design of KYC programs include customer acceptance policy, customer and beneficial owner identification and verification, ongoing monitoring of high-risk accounts and risk management. The Regulations also require reporting persons to take reasonable measures to verify the identity of beneficial owners. Enhanced due diligence (EDD) is required for higher risk categories of customers or transactions, as well as politically exposed persons. The Bank of Tanzania, during onsite examinations, verifies that banks and financial institutions

⁵ The 2009 MER noted: “The following financial institutions are not reporting person for the purpose of the AML Act: pension fund managers, investment advisers; securities custodians, financial leasing entities, micro finance companies, savings and credit co-operative societies and housing finance companies.”

have appropriate KYC, CDD and EDD policies and procedures. Record-keeping requirements and the obligation to report suspicious transactions are established.

Tanzania conducted a national risk assessment (NRA) from September 2015 to December 2016 and is currently working on implementation of the NRA results.

Accordingly, as confirmed during the country visit, Tanzania has not yet fully implemented the risk-based approach (RBA) to AML/CFT. While the legal and regulatory framework provides for a risk-based approach when it comes to KYC and CDD requirements, as provided for under the 2012 AML Regulations, in other areas the RBA has not yet been adopted and implemented.

It was further explained that supervisors are currently using the findings of the NRA to conduct sector specific risk assessments, which will enable them to promote and apply the risk-based supervisory framework.

In light of the above, it is recommended that Tanzania continue to implement the NRA results and the risk-based approach (RBA) to AML/CFT. All supervisors across the financial and non-financial sector should continue to use the findings of the NRA to promote and apply the risk-based supervisory framework commensurate with the risks facing their regulated entities. Supervised entities should be required to apply the RBA in all relevant areas, not only in respect of KYC and CDD requirements, in accordance with the business risk profile. The AML obligations should be extended to all Financial Institutions and DNFBPs, including money-value transfer providers (MVTPs).

The results of the NRA should further be used to inform the development of a National AML/CFT Strategy since the expiration of the previous strategy in 2013.

In respect of Tanzania-Zanzibar, although Zanzibar has a separate Anti-Money Laundering and Proceeds of Crime Act and Regulations, it was explained that the FIU of mainland Tanzania is oversees implementation of AML/CFT requirements with respect to Zanzibar as well. **Based on the information provided in the country visit, it is recommended that Tanzania strengthen the application and effective enforcement of the preventive AML framework set out in articles 14 and 52 of the Convention in Zanzibar, and strengthen cooperation and coordination among the relevant institutions in Zanzibar, in particular regarding the reporting and transmission of STRs and application of the supervisory framework.**

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the

collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The ability of authorities dedicated to combating money laundering within the country to cooperate and exchange information at the national and international levels is ensured by law. The Anti-Money Laundering Act, Cap 423 establishes the Financial Intelligence Unit (FIU) and it gives it power to receive and analyse information regarding potential money laundering and disseminate results thereof to law enforcement agencies. At the national level, the FIU has the ability to exchange information with all domestic authorities for purposes of discharging its duties. At the international level, the FIU has the ability to exchange information with overseas Financial Intelligence Units and other comparable bodies.

Other bodies or agencies responsible for combating money laundering are the regulators which are required by law to enforce compliance with the anti-money laundering requirements, the law enforcement agencies responsible for investigation of predicate offences and the related money laundering, as well as the prosecution authorities responsible for prosecution of money laundering offence.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The cooperation and exchange of domestic information on anti-money laundering is guided by the Anti-Money Laundering Act.

Tanzania is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), which is a FATF style regional body for Eastern and Southern Africa. Through the ESAAMLG regional AML network senior officials from more than 17 countries meet each year to discuss their progress on combating money laundering and financing of terrorism.

The FIU Tanzania has signed MoUs for exchange of information with 14 foreign FIUs, including the FIUs of the United Kingdom, South Africa, Namibia, and Malawi.

Section 8 of the AML Act, as amended by the AML Act 2012, establishes the National Multi-Disciplinary Committee on AML to advise government on legislative, regulatory and policy reforms in respect of anti-money laundering and combating predicate offences. The Committee comprises representatives from the Bank of Tanzania, Ministry of Finance, Attorney General's Chambers (Mainland and Zanzibar), Directorate of Criminal Investigation, Ministry of Foreign Affairs, the FIU, Capital Markets and Securities

Authority, Tanzania Intelligence and Security Service, and the PCCB. The National Committee was formally constituted in 2007.

(b) Observations on the implementation of the article

Tanzania's FIU became a member of the Egmont Group on 13 June, 2014. There is also cooperation through SARPCCO and Interpol.

A National AML Committee was constituted in 2007. The observations made above in respect of application of the AML framework to Tanzania-Zanzibar are referred to.

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 23 of the Anti-Money Laundering Act, Cap.423 imposes an obligation on every person who enters or leaves the territory of the United Republic of Tanzania to declare physical transportation of cash or bearer negotiable instrument in any amount equal to or above the amount prescribed by the Minister.

The cited law requires the Minister for Finance to prescribe the reporting threshold.

Tanzania has adopted the Anti-Money Laundering (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016, which provide the prescribed amount for declaration of currency and bearer negotiable instruments:

4. Prescribed amount for declaration

(1) For purposes of declaration of currency or bearer negotiable instruments under section 23(1) of the Act, the prescribed amount shall be United States dollars 10,000 or its equivalent in Tanzanian shillings or any foreign currency based on the official conversion rate of the Bank of Tanzania which is in effect at the time of transportation of the currency or bearer negotiable instrument across the border. ...

Declarations are to be made to the customs authority, pursuant to section 5 of the Regulations. Penalties for violations of the Regulation are the imposition of a fine (Regulation 5(5); section 28B, AML Act).

Section 28B. General Penalty

(1) Where a person contravenes any provisions of this Act or regulations made under this Act and no specific penalty is stipulated for that offence, that person shall, on conviction:

(a) in case of an individual person, be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater or imprisonment for a term not exceeding three years;

(b) in case of a body corporate, be liable to a fine of not less than five hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater.

(2) For purpose of sub-section (1), every director, manager, controller or principal officer of the company, partner, or a principal officer of the partnership shall be deemed to have committed the offence.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

The implementing regulations for the declaration process to start were issued in 2016. The declaration requirement came into effect on 1 October, 2017.

(b) Observations on the implementation of the article

Tanzania has established implementing regulations that set out the prescribed amount for declaration of currency and bearer negotiable instruments (US\$ 10,000).

It was confirmed during the country visit that the declaration regime came into effect on 1 October 2017.

Pursuant to the newly introduced Cross-Border Declaration of Currency and Bearer Negotiable Instruments Regulations 2016, non-declaration or false declaration of the prescribed amount is an offence punishable by law. Through January 2019, Tanzania's Revenue Authority (TRA) has received 8356 declarations under the new regime (7957 pertaining to declarations made on departure from, and 399 pertaining to declarations made on arrival into, Tanzania), and 2 cases had been initiated and referred to the courts for prosecution: one related to non-declaration and one related to a false declaration).

Given the recent enactment of the cross-border declaration regime, Tanzania is encouraged to continue efforts to ensure the effective enforcement of the new regulations and, in particular, the full application to persons travelling into and out of Zanzibar.

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
- (b) To maintain such information throughout the payment chain; and
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part.

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 4 of the Anti-Money Laundering Act, Cap. 423 gives the FIU power to receive electronic funds transfer reports. However, the FIU has not started to receive these reports due to lack of implementing regulations. The required regulations will provide for the details of requirements to be complied with for the relevant electronic transactions. The Government is working on the required regulations.

As required by section 6 of the Act, the FIU shall further issue Guidelines related to reporting electronic fund transfers (section 34, AML 2012 Regulations).

Authorities in Tanzania have prepared draft implementing regulations on electronic funds transfers to be issued as soon as the requisite processes are completed.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

As of March 2019, the draft implementing regulations on electronic funds transfers have not been enacted. A task force had been created and comments were being solicited from stakeholders. The implementing regulations will be issued as soon as the requisite processes are completed.

(b) Observations on the implementation of the article

Tanzania has not implemented this provision.

During the country visit it was explained that money-value transfer providers (MVTPs) are under the supervision of the Bank of Tanzania (BOT) and Tanzania Communications Regulatory Authority (TCRA) and are required to comply with AML obligations as reporting persons in the category of cash dealers, but that no guidelines had yet been

issued for MVTPs.

Furthermore, some limited inspections of the MVTP sector had begun. AML/CFT inspections have been carried out on some players in the sector, but mobile network operators are expected to be inspected for AML/CFT purposes from the financial year 2019/2020.

In regards to electronic transfers, the draft implementing regulations have not been enacted.

It is recommended that Tanzania adopt measures in line with the provision under review. This includes, as noted under para. 1(a), ensuring effective enforcement of the AML obligations of MVTPs through inspections and oversight. In regards to electronic transfers, Tanzania should expedite the enactment of implementing regulations to implement the provision under review.

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As a member of Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the FATF-Style Regional Body for Eastern and Southern Africa, Tanzania accepts International Standards on Combating Money-Laundering and the Financing of Terrorism and Proliferation (FATF Recommendations).

Tanzania underwent the mutual evaluation process by ESAAMLG in 2009 whereby its AML/CFT system was evaluated against the FATF recommendations. Post-evaluation progress reports were submitted in 2017 and 2018.

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

No statistics provided

(b) Observations on the implementation of the article

Tanzania has taken a number of specific steps to implement the recommendations of the 2009 MER. It was reported that Tanzania has addressed all strategic deficiencies from its 2009 evaluation and was removed from the monitoring process in June 2014.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, sub-regional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please see the response in art. 14, subparagraph 1(b).

Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.

None

(b) Observations on the implementation of the article

No statistics or examples of cooperation through Egmont or INTERPOL in respect of AML were available.

V. Asset recovery

Article 51. General provision

Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention, including identifying both any legal authorities/procedures for accepting requests for asset recovery and assessing that these requests are reasonably substantiated and supplemented as well as any time frame established under domestic laws and procedures for their execution, taking into account requests received from countries with similar or different legal systems and any challenges faced in this context.

Tanzania has implemented this article by enacting the Mutual Assistance in Criminal Matters Act No. 24 of 1991, which covers both requests by Tanzania and requests by foreign countries. The Act was amended by the provisions of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018.

Section 3 of the Mutual Assistance in Criminal Matters Act

3. Application of Act

(1) Subject to subsections (2) and (3), whenever the Minister is satisfied that reciprocal provisions have been made by any foreign country to facilitate the provision to Tanzania of assistance in criminal matters, he may, by order published in the Gazette, declare that the provisions of this Act shall apply in relation to any such foreign country.

(2) The Minister may, by order published in the Gazette, direct that the application of this Act in relation to a specified foreign country shall be subject to such conditions or modifications as may be specified in the statutory instrument, and thereupon this Act shall apply accordingly.

(3) This section shall not apply to Part II.

Section 4 of the Mutual Assistance in Criminal Matters Act

4. Aspect of mutual assistance

For the purposes of this Act, mutual assistance in criminal matters shall include:

- (a) The obtaining of evidence, documents or other articles;
- (b) The provision of documents and other records;
- (c) The location and identification of witnesses or suspects;

- (d) The execution of requests for search and seizure;
- (e) The making of arrangements for persons to give evidence or assist in investigations;
- (f) The forfeiture or confiscation of property in respect of offences;
- (g) The recovery of pecuniary penalties in respect of offences;
- (h) The restraint⁶ of dealings in property, or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences;
- (i) preserving and obtaining all forms of computer and telecommunication data;
- (j) interception of postal items;
- (k) interception of communications data;
- (l) covert electronic surveillance;
- (m) facilitating the taking of evidence by video conference;
- (n) The location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences and;
- (o) The service of documents.

A foreign country may make a request to the Tanzanian Government through the provision of section 9 of the Mutual Assistance in Criminal Matters Act to the Director of Public Prosecutions (NPS)⁷.

Section 30 of the Mutual Assistance in Criminal Matters Act provides for outgoing requests from Tanzania as follows:

30. Request for enforcement of orders.

The Director of Public Prosecutions may request an appropriate authority of a foreign country to which this Act applies to make arrangements for the enforcement of:

- (a) A forfeiture order made in Tanzania against property that is believed to be located in that country; or
- (b) A pecuniary penalty order made in Tanzania where some or all the property available to satisfy the order is believed to be located in that country; or
- (c) A restraining order⁸ made in Tanzania against property that is believed to be located in that country; if the order in respect of a serious offence.

Please provide examples of the implementation of those measures, including related

⁶ Section 35 of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018

⁷ The Director of Public Prosecutions replaced the Attorney General for purposes of all provisions of the Mutual Assistance in Criminal Matters Act and the Proceeds of Crime Act, in accordance with sections 35 and 93 of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018.

⁸ Section 35 of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018

court or other cases, statistics etc.

Tanzania provided the following statistics during the country visit.

Since 2017, there have been 5 incoming requests relating to the tracing, restraint or confiscation of assets located in Tanzania. Although there have been no concluded asset recovery cases to date, Tanzania has successfully restrained foreign assets located in Tanzania. Most of the incoming requests were still ongoing at the time of the country visit.

Tanzania has never formally refused an asset recovery request. However, it was reported that in one case involving a request for asset freezing from Uganda, Tanzanian authorities also had a basis to confiscate the assets in question, and there were ongoing consultations on asset sharing and the need for an agreement to be reached in this regard before the matter could proceed.

(b) Observations on the implementation of the article

It should be noted that assistance under the MACMA is limited to countries designated by order of the Minister published in the Gazette as countries with which reciprocal arrangements for MLA have been made. It was explained during the country visit that no countries have been formally designated for purposes of cooperation under the MACMA. **It is recommended that Tanzania consider amending its legislation in this regard.**

Tanzania has signed two treaties on mutual legal assistance in civil and criminal matters (not limited to the recovery of assets). The authorities confirmed during the country visit that assistance can be provided in the absence of a bilateral or multilateral treaty on the basis of reciprocity. It is further noted that the Convention may be directly applied by Tanzania, and the country has had experience using the Convention as a legal basis for international cooperation⁹. Assistance can also be rendered to Commonwealth countries in the absence of a treaty under the Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (Harare Scheme).

Tanzania has had only limited experience relating to the recovery of foreign assets located in Tanzania. No such cases have been successfully concluded, although Tanzania has successfully restrained foreign assets. Moreover, Tanzania has never formally refused a request for the recovery of assets located in the country.

Zanzibar has its own Anti-Money Laundering and Proceeds of Crime Act and Regulations, as noted above. The FIU oversees implementation of AML/CFT requirements with respect to Zanzibar as well. No information on the implementation of these provisions in Zanzibar in practice was available. **It is recommended that Tanzania ensure the full implementation of the Convention's obligations under chapter V also in respect of Zanzibar.**

Tanzania reported challenges and requested technical assistance to more fully implement the requirements of chapter V, as noted in the annex to this report.

⁹ Republic v. Median Boastice Mwale, Criminal Case No. 330 of 2011 in the Resident Magistrates Court of Arusha.

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has passed the Anti-Money Laundering Act 2006 and its regulations of 2007, as well as the following laws and regulations:

- The Anti-Money Laundering (Amendment) Act, 2012
- Written Laws (Miscellaneous Amendments) (No. 2) Act, 2016
- Anti-Money Laundering (AMLA) Regulations 2012
- Anti-Money Laundering (Cross-Border Declaration of Currency and Bearer Negotiable Instruments) Regulations, 2016.
- Prevention of Terrorism (General) Regulations, 2014
- Additional legislation applies in Zanzibar, notably: the Anti-Money Laundering and Proceeds of Crime Act, No. 10 of 2009 for Tanzania-Zanzibar; Written Laws (Miscellaneous Amendment) Act No. 12 of 2011 for Tanzania-Zanzibar; and Anti-Money Laundering and Proceeds of Crime Regulations 2015 Zanzibar.

In regard to the paragraph under review, the following provisions are relevant:

- Section 15, Anti-Money Laundering Act 2006
- Part II, Anti-Money Laundering Regulations 2012

- Part III, Anti-Money Laundering Regulations 2012
- Part V, Anti-Money Laundering Regulations 2012
- Guidelines for the Verification of Customers Identities 2009

In short, the FIU has issued Guidelines for the Verification of customer's identities in order to guide Reporting Persons on how to comply with the statutory provisions on customer identities.

The law imposes administrative sanctions for reporting persons who fail to observe statutory provisions requiring them to apply KYC/CDD measures against their customers (section 19A of the Anti-Money Laundering Act as amended by section 13 of the Anti-Money Laundering (Amendment) Act, 2012. These administrative sanctions may be imposed by the FIU or regulator against reporting persons who fail to verify customers' identities, establish and maintain customer records, report suspicious transactions and establish and maintain internal reporting procedures (sections 15-18 AML Act). The types of administrative sanctions that may be imposed by the FIU or regulator are spelled out in Regulation 37 of the Anti-Money Laundering Regulations 2012.

In respect of customer and beneficial owner identification, section 15(4) of the AML Act requires financial institutions to take reasonable measures to establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, as trustee, nominee, agent or otherwise. Part V of the Anti-Money Laundering Regulations 2012 is also referred to.

Anti-Money Laundering Act of Tanzania No. 12 of 2006

15. Reporting persons to verify customer's identify

(1) A reporting person shall:

(a) take reasonable measures to satisfy himself as to the true identity of any applicant seeking to enter into a business relationship with him or to carry out a transaction or series of transactions with him, by requiring the applicant to produce an identity official record reasonably capable of establishing the true identity of the applicant;

(b) in relation to politically exposed persons, in addition to performing normal due diligence measures:

(i) have appropriate risk management systems to determine whether the customer is a politically exposed person;

(ii) obtain senior management approval for establishing business relationship with such customer;

(iii) take reasonable measures to establish the source of wealth and source of funds; and

(iv) conduct enhanced on-going monitoring of the business relationship.

(2) The official record referred to under subsection (1) shall include:

(a) a birth certificate or an affidavit to that effect;

(b) a passport or other official means of identification;

(c) in the case, of a body corporate, a copy of the organizations Memorandum and Articles of Association and a certificate of incorporation together with latest annual reports certified by the Chief Executive Officer of the Business Registration and Licensing Authority; and

(d) any other documents as may be prescribed by the Minister in the regulations.

(3) Where an applicant requests a bank, financial institution or any other reporting person to enter into:

(a) a continuing business relationship;

(b) in the absence of such a relationship, any transaction, the bank, financial institution or any other reporting person shall take reasonable measures to establish whether the person is acting on behalf of another person.

(4) Where it appears to a reporting person that, an applicant requesting him to enter into any transaction, whether or not in the course of a continuing business relationship, is acting on behalf of another person, the reporting person shall take reasonable measures to establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise.

(5) In determining what constitutes reasonable measures for the purposes of subsection (1), (2) or (4), regard shall be had to all the circumstances of the case, and in particular:

(a) to whether the applicant is a person based or incorporated in a country in which there are in force provisions applicable to it to prevent the use of the financial system for the purpose of money-laundering or terrorist financing; and

(b) to custom and practice as may from time to time be current in the relevant field of business.

(6) Nothing in this section shall require the production of any evidence of identity where-

(a) the applicant himself is a reporting person to which this Act applies; or

(b) there is a transaction or series of transactions taking place in the course of a business relationship, in respect of which the applicant has already produced satisfactory evidence of identity.

Anti-Money Laundering Regulations 2012

PART V. CUSTOMER DUE DILIGENCE MEASURES

28. Application of customer due diligence

(1) Every reporting person shall apply Customer Due Diligence measures when-

(a) establishing a business relationship;

(b) carrying out an occasional transaction;

(c) money laundering or terrorist financing is suspected; or

(d) veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification is doubted.

- (2) A reporting person shall identify and verify the beneficial owners during the course of establishing a business relationship or when conducting transactions with its customers.
- (3) A reporting person shall identify and verify the beneficial owners when conducting occasional transactions with its customers.
- (5) Subject to sub-regulation (2) and (3), the reporting person shall undertake reasonable measures to verify the identity of the beneficial owner such that the reporting person is satisfied that it knows who the beneficial owner.
- (6) A reporting person shall apply customer due diligence measures at other appropriate times to existing customers on a risk sensitivity basis.
- (7) When dealing with entities, the reporting person shall undertake CDD measures to determine the natural persons that ultimately own or control the legal person or arrangement.
- (8) A reporting person shall-
- (a) determine the extent of customer due diligence measures on a risk sensitivity basis depending on the type of customer, business relationship, product or transaction; and
 - (b) be able to demonstrate to his supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing.
- (9) Notwithstanding the provisions of this regulation, reporting persons whose requirements are stipulated in the Schedule to these Regulations, shall observe the customer due diligence as stipulated in the Schedule.

Schedule (Made under regulation 28 (7))

8. The Customer Due Diligence measures to be taken includes the following:

- (a) identifying the customer and verifying customer's identity using reliable, independent source documents, data or information;
- (b) identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the banking institution is satisfied that it knows who the beneficial owner is;
- (c) obtaining information on the purpose and intended nature of the business relationship;
- (d) conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including the source of funds.

9. The bank or financial institution shall apply each of the CDD measures pointed out under paragraph 8, but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction. The measures that are taken should be consistent with any Guidelines issued by competent authorities. For higher risk categories, institutions should perform enhanced due diligence.

10. The bank or financial institution shall verify identities of the customers they deal with

in line with the provisions of the Act, these Regulations and Guidelines. The bank or financial institutions shall verify the identities of customers and beneficial owners before or during the course of establishing a business relationship or conducting transactions for walk in customers.

11. Where the institution is unable to verify the identity as provided under paragraphs 10 and 11, it shall not open the account, commence business relations or conclude the transaction; or it shall terminate the business relationship; and file a suspicious activity report in relation to the customer.

For politically exposed persons (PEPs), enhanced due diligence is required under section 15 of the AML Act. The Act provides the following definition (section 3):

"politically exposed person" means a foreign individual entrusted with prominent public functions including heads of state or government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations or agencies"

The 2012 AML Regulations further provide as follows:

Schedule (Made under regulation 28 (7))

A. VERIFICATION OF CUSTOMERS' IDENTITIES

12. The bank or financial institution shall, in relation to politically exposed persons (as defined in the Act), in addition to performing normal due diligence measures-

- (a) have appropriate risk management systems to determine whether the customer is a politically exposed person;
- (b) obtain senior management approval for establishing business relationships with such customers;
- (c) take reasonable measures to establish the source of wealth and source of funds;
- (d) conduct enhanced ongoing monitoring of the business relationship.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

There were no statistics provided.

(b) Observations on the implementation of the article

Tanzania has established KYC and CDD requirements for reporting persons (AML Regulations 2012). Key elements in the design of KYC programs pursuant to these regulations include customer acceptance policy, customer identification, ongoing monitoring of high-risk accounts and risk management. The Regulations also require reporting persons to take reasonable measures to verify the identity of beneficial owners (Regulation 28 and Schedule thereunder). Enhanced due diligence (EDD) is required for

higher risk categories of accounts/customers or transactions, as well as politically exposed persons (section 15, AML Act and Regulation 28, AML 2012 Regulations). The Bank of Tanzania, during onsite examinations, verifies that banks and financial institutions have appropriate KYC, CDD and EDD policies and procedures (Schedule to Regulation 28, AML 2012 Regulations).

The law imposes administrative sanctions for reporting persons who fail to observe the KYC/CDD requirements (section 19A of the Anti-Money Laundering Act as amended by section 13 of the Anti-Money Laundering (Amendment) Act, 2012). Criminal penalties are explicitly foreseen under the 2012 AML Amendment Act for violations of the record keeping obligations (section 11), failure to report STRs (section 17), tipping off (section 20), as well as for acts of money laundering (section 13). In addition, the authorities explained that in appropriate cases criminal penalties could be applied under the general penalty provision, Section 28B of the Anti-Money Laundering (Amendment) Act:

28B. General penalty

(1) Where a person contravenes any provisions of this Act or regulations made under this Act and no specific penalty is stipulated for that offence, that person shall, on conviction:

(a) in case of an individual person, be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater or imprisonment for a term not exceeding three years;

(b) in case of a body corporate, be liable to a fine of not less than five hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater.

(2) For purpose of sub-section (1), every director, manager, controller or principal officer of the company, partner, or a principal officer of the partnership shall be deemed to have committed the offence.

In respect of onsite inspections and administrative sanctions imposed, it was explained that as of January 2019 the FIU has inspected 58 financial institutions, most of which displayed deficiencies in their AML frameworks. Administrative warnings to undertake remedial action were issued. **It is recommended that Tanzania strengthen the capacity for onsite inspections of supervised entities, ensure that appropriate administrative and criminal measures are issued for violations of the AML requirements, and ensure regular monitoring and follow-up on the results of the remedial action undertaken by supervised entities. Tanzania has requested technical assistance in this regard, in the form of training on how to enhance the capacity to carry out onsite inspections (see annex).**

The reviewers note some gaps in respect of the legal requirements applicable to politically exposed persons (PEPs). It was confirmed during the country visit that the definition of PEP in section 3 of the AML Act does not include domestic PEPs, as well as family members and close associates. **It is recommended that Tanzania amend its legislation in this regard.**

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 15(1)(b), (3), and (4) of the Anti-Money Laundering Act, 2006 (cited above) requires enhanced scrutiny for accounts opened for Politically Exposed Persons (PEPs) and customers acting on behalf of another person.

In addition, the provisions of the 2012 AML Regulations cited above require enhanced scrutiny of higher risk categories of accounts/customers or transactions, as well as politically exposed persons. The 2012 AML Regulations further provide as follows:

6. The bank or financial institution shall pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, bank or financial institutions shall have policies and procedures in place to address any specific risks associated with non face-to-face business relationships or transactions.

7. The bank or financial institution shall pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or viable lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established, put in writing, and made available to help competent authorities.

The Regulations also provide for account-opening, maintenance and record-keeping measures.

As mentioned above, Tanzania's FIU has also developed Guidelines for the Verification of Customers Identities (2009), in order to guide Reporting Persons on how to comply with the statutory provisions on customer identification.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics were provided

(b) Observations on the implementation of the article

Tanzania appears to have implemented this provision.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(N) No.

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

No steps have been taken apart from the issuance of the Guidelines referenced above. It was explained by officials that Tanzania is awaiting the outcome of the NRA before notifying supervised entities in accordance with the provision under review.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

None.

(b) Observations on the implementation of the article

Tanzania has not implemented subparagraph 2(b) of article 52 of the Convention.

It is recommended that Tanzania adopt measures to notify financial institutions accordingly, at the request of another State Party or on its own initiative.

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Provisions in the Anti-Money Laundering Act 2007 and its Regulations of 2007 implement the provision under review. In that regard, the following provisions are concerned:

- Section 16, Anti-Money Laundering Act 2006 as amended by section 11 of the Anti-Money Laundering Act 2012
- Regulations 30-31, Anti-Money Laundering Regulations 2012
- Schedule to the Anti-Money Laundering Regulations 2012

Explanation

Section 16 of the AML Act as amended by the AML (Amendment) Act, 2012 provides for administrative or criminal sanctions for non-compliance with the record keeping requirements in section 16 of the Act.

The text of the amended provision is provided hereunder.

Section 16, Anti-Money Laundering Act 2006, as amended by section 11 of the Anti-Money Laundering Act 2012

16. Reporting persons to establish and maintain customer records

(1) Every reporting person shall establish and maintain:

- (a) Records of all transactions, accounts, files and business correspondence carried out by such person; and
- (b) Where evidence of a person's identity is obtained in accordance with subsection (1)

of section 15, a record that indicates the nature of the evidence obtained, and which comprises of either a copy of the evidence or such information as would enable a copy of it to be obtained.

(2) Records required under paragraph (a) of subsection (1) shall contain particulars sufficient to identify:

(d) The name, address and occupation or where appropriate business or principal activity, of each person:

(i) conducting the transaction;

(ii) if known, on whose behalf the transaction is being conducted, as well as the method used by the reporting person to verify the identity of each such person,

(e) The nature and date of the transaction,

(f) The type and amount of currency involved;

(g) The type and identifying number of any account with the reporting person involved in the transaction;

(h) If the transaction involves a negotiable instrument other than currency, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee, if any, the amount and date of the instrument, the number, if any, of the instrument and details of any endorsements appearing on the instrument; and

(i) The name and address of the reporting person, and of the officer, employee or agent of the reporting person who prepared the record.

(3) Records maintained pursuant to this section shall be made available on a timely basis to FIU upon request.

(4) Where a reporting person is required by any provision of law to release any document referred to in section 18 before the period of five years elapsed, he shall retain a copy of the document and shall maintain a register of released documents with such particulars as may be prescribed in the Regulations to be made.

(5) Any reporting person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to:

(a) administrative actions as prescribed in the regulations made under Section 19A of this Act; or

(b) criminal sanctions as provided for under this Act.

Anti-Money Laundering Regulations 2012

30. Records Retention Period

(1) A reporting person shall retain records required by section 16 of the Act for a minimum period of ten years from the date-

(a) when all activities relating to a transaction or a series of linked transactions were completed;

(b) when the business relationship was formally ended; or

(c) where the business relationship was not formally ended but when the last transaction was carried out.

(2) where a reporting person is required by any enactment to release a record referred to in sub regulation (1) before the period of ten years lapses, the reporting person shall retain a copy of the record.

(3) Where a report has been made to the FIU pursuant to the provisions of the Act or the reporting person knows or believes that a matter is under investigation, that person shall without prejudice to sub-regulation (1), retain all relevant records for as long as may be required by the FIU.

(4) For the purpose of this regulation, the question as to what records may be relevant in the analysis process may be determined in accordance with the Guidelines.

31. Format and retrieval of records

(1) A reporting person shall ensure that any records required to be maintained under these Regulations are retrievable without delay and they can be retrieved in legible format.

(2) A reporting person may rely on the records of a third party in respect of the details of payments and transactions by customers, provided that it is satisfied that the third party is willing and able to retain and, if asked to produce in legible form, copies of the records required.

Schedule to the Anti-Money Laundering Regulations 2012

14. The bank or financial institution shall retain records concerning customer identification and transaction.

15. The records prepared and maintained by any bank or financial institution on its customer relationships and transactions shall ensure that-

- (a) requirements of legislation are fully met;
- (b) competent third parties will be able to assess the institution's observance of anti-money laundering and anti-terrorist financing policies and procedures;
- (c) any transactions effected via the institution can be reconstructed; and
- (d) the institution can satisfy enquiries from the appropriate authorities.

16. The bank or financial institution shall retain records for at least ten years as provided for under these Regulations whereby; retention may be by way of original documents, stored on hard copy files, microfiche, and computer disk or in other electronic form.

17. The records referred under paragraph 17 shall be sufficient to permit reconstruction of individual transactions including the date, amounts and types of currency involved so as to provide, if necessary, evidence for prosecution of criminal activity.

18. The bank or financial institution shall keep records on the identification data obtained through the customer due diligence process such as copies or records of official identification documents like passports, identity cards, driving licenses or similar documents, account files and business correspondence for at least ten years after the

business relationship is ended.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics provided

(b) Observations on the implementation of the article

Section 16 of the Anti-Money Laundering Act 2006, as amended by section 11 of the Anti-Money Laundering Act 2012, contains record keeping obligations which apply to all transactions, accounts, files and business correspondence maintained by reporting persons. These requirements cover information pertaining to the identity of customers and beneficial owners, if known.

Section 30 of the Anti-Money Laundering Regulations 2012 prescribe a ten-year records retention period. Reporting persons are further required to carry out regular reviews of existing customer records, pursuant to the schedule to the Regulations.

The Bank of Tanzania, during onsite examinations, verifies that banks and financial institutions retain records pertaining to customer identification and transactions as required by the Act, the Regulations and Guidelines. Any reporting person who contravenes the record keeping requirements under the AML Act commits an offence and shall, on conviction, be liable to administrative actions (as prescribed under Section 19A of the AML Act) or criminal sanctions as provided for in the Act.

Tanzania has implemented the provision.

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if

any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The following provisions of laws partly implement this article:

- Section 6(1), Banking and Financial Institutions Act 2006
- Section 7(1), Banking and Financial Institutions Act 2006
- Section 8, Banking and Financial Institutions Act 2006
- The Banking and Financial institutions (Licensing) Regulations, 2014
- The 2012 AML Regulations (Schedule to Regulation 28)

The above provisions read as follow:

Section 6(1), Banking and Financial Institutions Act 2006

6. Prohibition on operating without a licence

(1) A person may not engage in the banking business or otherwise accept deposits from the general public unless that person has a licence issued by the Bank in accordance with the provisions of this Part.

Section 7(1), Banking and Financial Institutions Act 2006

7. Power of the Bank to grant licence

(1) The Bank may, upon application made in pursuance of the provisions of this Act, grant a licence to undertake the banking business to an entity formally established in accordance with the Companies Act, Companies Decree, Cooperative Societies Act, 1986 or the Cooperative Societies Act, 2003.

Section 8, Banking and Financial Institutions Act 2006

8. Application for licence

(1) Every application for a licence shall be made in writing and shall include:

- (a) Applicant's proposed memorandum and articles of association or other charter or instrument of formation required by applicable law;
- (b) A statement of the address of the head office, location of the principal and other places where it proposes to do business and, in the case of a mobile agency, the area to be served;
- (c) The name and address of every subscriber, shareholder, board directors, Chief Executive Officer and any officer directly reporting to the Chief Executive Officer;
- (d) Information that may be prescribed by the Bank for purposes of assessing solvency and trustworthiness of each shareholder with a significant interest; and
- (e) Such financial data, business plans and other documents and information as the Bank may require in order conducting the investigation during review of the application.

(2) The application and every document submitted with an application shall be signed by the directors of the applicant together or by any officer legally authorized to do so.

The 2012 AML Regulations further provide as follows (Schedule to Regulation 28):

3. The bank or financial institution shall not keep anonymous accounts or accounts in fictitious names.

4. The bank or financial institution shall undertake customer due diligence measures, including identifying and verifying the identity of their customers, when:

- (a) establishing business relations;
- (b) carrying out occasional transactions;
- (c) there is a suspicion of money laundering or terrorist financing;
- (d) there are doubts about the veracity or adequacy of previously obtained customer identification information.

5. The bank or financial institution shall refuse to enter into, or continue, a correspondent banking relationship with shell banks and shall also guard against establishing relations with respondent foreign bank or financial institutions that permit their accounts to be used by shell banks.

13. In relation to cross-border correspondent banking and other similar relationships, in addition to performing normal due diligence measures, bank or financial institutions shall-

- (a) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;
- (b) assess the respondent institution's anti-money laundering and terrorist financing controls;
- (c) obtain approval from senior management before establishing new correspondent relationships;
- (d) with respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics provided

(b) Observations on the implementation of the article

The licensing provisions under the Banking and Financial Institutions Act prevent the establishment of “shell banks” in the United Republic of Tanzania. The process of granting a banking license requires the relevant documents to be submitted, which, inter alia contain information about the address of the company as well as the location where the company intends to run its business.

Banks and financial institutions are prohibited from entering into, or continuing, correspondent banking relationships with shell banks and are also required to guard against establishing relations with respondent foreign banks or financial institutions that permit their accounts to be used by shell banks (2012 AML Regulation). The measures specifically require financial institutions to conduct CDD on respondent institutions to assess their AML/CFT controls and determine their adequacy.

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The following provisions implement this paragraph of the Convention:

- Section 26, Tanzania Prevention and Combating of Corruption Act (2007)
- Section 27, Tanzania Prevention and Combating of Corruption Act (2007)
- Article 70, Constitution
- Article 84, Constitution
- Section 6, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 8, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 9, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 10, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 11, Public Leadership Code of Ethics Act 1995 (as amended)

- Section 14, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 15, Public Leadership Code of Ethics Act 1995 (as amended)
- Section 18, Public Leadership Code of Ethics Act 1995 (as amended)
- Public Leadership Code of Ethics (Declaration of Interests, Assets and Liabilities) Regulations 1996

The above cited provisions read as follows:

Section 26, Tanzania Prevention and Combating of Corruption Act (2007)

Public officials to give accounts of properties:

- (1) Any officer of the Bureau authorised in writing by the Director General may, by notice in writing addressed to any public official require such public official to give, within such time and in such manner as may be specified in the notice, a full and true account of all or any class of properties which such public official or his agent possess or which he or his agent had in possession at any time during which the public official held any public office, and such officer of the Bureau may, by the same or subsequent notice, require such public official to give a true account of how he acquired such property.
- (2) In any prosecution for an offence, any statement or account in writing given by the accused person pursuant to a notice given to him under subsection (1) shall be admissible in evidence.
- (3) A public official who fails to comply with the requirement of a notice addressed to him pursuant to this section, or knowingly gives a false account in relation to any property, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.
- (4) In a prosecution for an offence under subsection (3), evidence of the fact that a notice under subsection (1) was given by an officer of the Bureau shall be conclusive evidence that such officer of the Bureau was authorised as such.
- (5) For the purpose of this section- “agent” means the husband, wife or child of the public official, any debtor of the public official, or any other person acting for or on behalf of the public official, and includes any person in possession or ownership of property, the acquisition of which is or was met wholly or partly by the public official; “public official” includes any person who held a public office at any time during the five years immediately preceding the date on which a notice under subsection (1) is given.

Section 27, Tanzania Prevention and Combating of Corruption Act (2007)

Possession of unexplained property:

- (1) A person commits an offence who, being or having been a public official:
 - (a) Maintains a standard of living above that which is commensurate with his present or past lawful income;

- (b) Owns property disproportionate to his present or past lawful income, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such property came under his ownership.
- (2) Where in proceedings for an offence under subsection (1) (b) the court is satisfied that, having regard to the closeness or relationship to the accused and other circumstances, there is reason to believe that any person is or was holding property in trust for or otherwise on behalf of the accused or has acquired such property as a gift from the accused, such property shall, in the absence of evidence to the contrary, be presumed to be in the control of the accused.
- (3) Subject to this section, where a person is convicted of an offence under this section shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.
- (4) The court shall, in addition to the penalty imposed under subsection (3), order the confiscation of any pecuniary gain or property:
- (a) Found to be in the ownership of the accused; and
- (b) Of an amount or money value not exceeding the amount or value of pecuniary gain or property the acquisition of which was not explained to the satisfaction of the court.
- (5) Any application for an order under subsection (4) shall be made by the Director General within twenty eight days after the date of the conviction, except that such order shall not be made in respect of property held by a person other than the person convicted:
- (a) Unless that other person has been given reasonable notice that such an order may be made and had an opportunity to show cause why it should not be made; or
- (b) If that other person satisfies the court in any proceedings to show cause that he had:
- (i) Acted in good faith as regards to the circumstances in which the property came to his possession; and
- (ii) So acted in relation to the property that an order in the circumstances would be unjust.
- (6) Nothing in subsection (5) shall be construed as limiting the court's discretion to decline to make an order under subsection (4) on grounds other than those specified in subsection (5).
- (7) An order under subsection (4) may be made subject to such conditions as the court thinks fit regard being had to all circumstances of the case.
- (8) A court may make orders under both paragraphs of subsection (4) in respect of the same offence but shall not make orders under both provisions in respect of the same pecuniary gain or property.
- (9) An order under subsection (4) may make provisions for taking possession of property to which the order applies and for the disposal of such property by or on behalf of the Government.

Article 70, Constitution

- (1) Every Member of Parliament shall be required to submit to the Speaker two copies of a formal statement regarding his property and the property of his spouse. The statement shall be made on a special form prescribed by a law enacted by Parliament and shall be submitted from time to time as shall be directed by such law.
- (2) The Speaker shall transmit to the Ethics Commissioner, a copy of every formal statement submitted to him in accordance with the provisions of this Article.
- (3) Parliament may enact legislation for the purposes of making provisions designed for the protection of the statement of property submitted by a Member of Parliament in accordance with the provisions of this Article and to ensure that persons unauthorized or not concerned do not get the opportunity to see the statement of property or to know its contents.

Article 84, Constitution

- (1) There shall be a Speaker of the National Assembly who shall be elected by the Members of Parliament from amongst persons who are Members of Parliament or who are qualified to be Members of Parliament and shall be the Leader of the National Assembly in all other institutions and meetings.
- (2) A Minister, a Deputy Minister or a person holding any other office prescribed by a law enacted by Parliament for the purposes of this Article shall not be elected Speaker.
- (3) Any person elected Speaker shall be required, before the expiration of fifteen days of his election, to submit to the President a formal declaration that he has not lost the qualifications for election in terms of the provisions of paragraph (d) of subarticle (2) of Article 67. The declaration shall be made in a special form prescribed in accordance with a law enacted by Parliament.
- (4) The President shall transmit to the Ethics Commissioner a copy of every formal declaration submitted to him in accordance with the provisions of subarticle (3) of this Article.
- (5) The Speaker shall be required to submit to the President two copies of a formal statement regarding his property and that of his spouse. The Speaker shall submit such statement in a special form prescribed for that purpose in accordance with a law enacted by Parliament, and shall submit such statement from time to time as shall be directed by that law.
- (6) The provisions of subarticles (2) and (3) of Article 70 shall apply, mutatis mutandis, to any statement regarding property submitted by the Speaker in accordance with the provisions of this Article.
- (7) The Speaker shall cease to be Speaker and shall vacate his office upon the occurrence of any of the following events: ...
- (e) if that person fails to submit to the President a formal declaration in accordance with the provisions of subarticle (3) of this Article;

- (f) if that person is convicted of the offence of perjury contrary to the provisions of the Penal Code concerning any formal declaration submitted in accordance with the provisions of subarticle (3) of this Article;
 - (g) if that person fails to submit to the President a statement regarding his property in accordance with subarticle (5) of this Article before the expiration of the period stipulated for that purpose in accordance with a law enacted by Parliament; or
 - (h) if it is proved that that person has contravened the provisions of the law concerning the ethics of public leaders.
- (8) No business, other than the election of the Speaker, shall be conducted in the National Assembly while the office of Speaker is vacant.
- (9) Any person not being a Member of Parliament, who is elected Speaker shall be required, before commencing to discharge the functions of his office, to take and subscribe the oath of allegiance before the National Assembly.

Section 6, Public Leadership Code of Ethics Act 1995 (as amended)

6. Principles to be invoked by Code

- (1) The Code of Ethics for public leaders shall seek as far as possible to institute and invoke the following principles in respect of the conduct of public leaders, namely–
- (a) in relation to ethical standards, that public leaders shall while in office act with honesty, compassion, sobriety, continence, and temperance, and uphold the highest possible ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of Government are conserved and enhanced;
 - (b) in relation to public scrutiny, that public leaders shall have an obligation–
 - (i) to perform their official duties and arrange their private affairs in a manner that would bear the closest public scrutiny, an obligation that is not fully discharged by simply acting lawfully;
 - (ii) in relation to all public leaders whether in elective or appointive offices, there is to be established a procedure for declaration of all property or assets owned by, or liabilities owed to him, his spouse or unmarried minor children, without prejudice to the right of wives and husbands of public leaders to own property independently of their spouses;
 - (c) in relation to decision making, that public leaders shall, in fulfilling their official duties and responsibilities make decisions in accordance with law, in the public interest and with regard to the merits of each case;
 - (d) in relation to private interests, that public leaders shall not have private interests, other than those permitted by the Code that would be affected particularly or significantly by government actions in which they participate;
 - (e) in relation to public interest, that on appointment or election to office and thereafter, the public leader shall arrange his affairs in a manner that would not occasion real, potential or apparent conflict of interest;
 - (f) in relation to execution of duties, the public leader shall not, whether directly or

indirectly, act or make decision in furtherance of his private interest or interest of the member of his family or any other person for whom he has a fiduciary relationship;

(g) in relation to gifts and benefits, that public leaders shall not solicit or accept transfers of economic benefit other than incidental gifts, customary hospitality or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public leader;

(h) in relation to preferential treatment, that public leaders shall not step out of their official roles to assist private entities or persons in their dealing with the government where this would result in preferential treatment to any person;

(i) in relation to inside information, that public leaders shall not knowingly take advantage of, or benefit from, information which is obtained in the course of their official duties and responsibilities and that is not generally available to the public;

(j) in relation to government property that public leaders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for purposes of according economic benefit to the leader;

(k) in relation to post-employment that:

(i) a public leader shall, within six months after the termination of his service, not seek or engage in any private employment that he was associated with when he was a public leader or when he had a supervisory role in the post of public leader, and for which he had direct management of;

(ii) a public leader shall not act, after he leaves a public office, in such a manner as to bring the service to ridicule or take improper advantage of his previous office, so that the possibilities may be minimized by:

(aa) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public leaders while in a public office;

(bb) obtaining preferential treatment or privileged access to government after leaving a public office;

(cc) taking personal advantage of information obtained in the course of official duties and responsibilities until it becomes generally available to the public; and

(dd) using a public office to unfair advantages in obtaining opportunities outside employment.

(2) A public leader who fails to comply with the requirements under subsection (1) breaches the code of ethics for public leaders and is liable to the actions specified under section 8.

Section 8, Public Leadership Code of Ethics Act 1995 (as amended)

8. The provisions of this Part shall constitute part of the code of ethics for public leaders according to the Constitution*, and breach of the code shall result in any of the following actions, namely—

(a) warning and caution;

(b) demotion;

- (c) suspension;
- (d) dismissal;
- (e) advising the leader to resign from the office to which the breach relates;
- (f) imposition of other penalties provided for under the rules of discipline related to the office of the leader; and
- (g) initiating action for the leader to be dealt with under the appropriate law.

Section 9, Public Leadership Code of Ethics Act 1995 (as amended)

9. Declaration of assets and liabilities

(1) Every public leader shall, except where the Constitution* or any other written law provides otherwise—

- (a) within thirty days after taking office;
- (b) at the end of each calendar year; and
- (c) at the end of his term of office,

submit to the Commissioner a written declaration, in a prescribed form, of all property or assets owned by, or liabilities owed to him, his spouse or child, subject to subsection (2) and subsection (5),

Provided that where the declaration of assets is made by a Commissioner under this section, the declaration shall be submitted to the President.

(2) A public leader shall not be required to declare as his property, and property shall not be deemed to be declarable by a public leader if—

- (a) it is not matrimonial property;
- (b) it is not jointly owned with the public leader's spouse or spouses.

(3) Any property or asset acquired by a public leader after the initial declaration required by paragraph (a) or (b) of subsection (1) and which is not attributable to income, gift, or loan approved in the Code shall be deemed to have been acquired in breach of the Code unless the contrary is proved.

(4) Any public leader who has previously made a declaration of assets under this section shall, during the subsequent declaration be required to declare as to the increase or decrease of assets as the case may be.

(5) The public leader shall, in making the declaration of assets under this section—

- (a) state the monetary value of the declared assets and the source or the manner in which he has acquired the assets;
- (b) state or disclose his debts if any and any other liabilities.

Section 10, Public Leadership Code of Ethics Act 1995 (as amended)

10. Non-declarable assets

(1) Assets and interests for private use of public leaders and their families, and assets that are not of a commercial character shall not normally be subject to public declaration or divestment.

(2) Non-declarable assets referred to in subsection (1) shall include—

(a) residences, recreational property and farms used or intended for use by public leaders or their families;

(b) household goods and personal effects for private use;

(c) works of art, antiques and collectibles;

(d) motor vehicles and other personal means of transportation;

(e) gains or advantage derived through labour on land owned or occupied by a public leader;

(f) registered retirement savings plans that are not self-administered, annuities and life insurance policies;

(g) money saved by a previous employer, client or partnership; and

(h) personal loans receivable from the members of the public leader's immediate family and small personal loans receivable from other persons where the public leader has loaned the moneys receivable.

Section 11, Public Leadership Code of Ethics Act 1995 (as amended)

11. Declarable assets

(1) A public leader shall make a declaration of assets that are not non-declarable assets in order for him to be able to deal with them without giving rise to a conflict of interest.

(2) Declarable assets shall include—

(a) cash and deposits in a bank or other financial institution;

(b) Treasury Bills and other similar investments in securities of fixed value issued or guaranteed by the Government or agencies of the Government;

(c) interest on money deposited in a bank, building society or other financial institution;

(d) dividends or other profits from stocks or shares held by a public leader in any company or other body corporate;

(e) interests in businesses that do not contract with the Government, and do not own or control publicly traded securities, other than incidentally, and whose stocks and shares are not traded publicly;

(f) farms under commercial or non-commercial operation;

(g) real property which is not an exempt asset;

(h) assets that are beneficially owned, which are not non-declarable assets and which are administered at arm's length.

Section 14, Public Leadership Code of Ethics Act 1995 (as amended)

14. Declaration of interest in Government contract

(1) Where a public leader has an interest in a contract that is made, or is proposed to be made, by the Government, and has not made a sufficient declaration under subsection (4) in relation to the contract, the public leader shall as soon as practicable make a declaration of his interest in relation to the contract, specifying the nature and extent of his interest.

(2) Where—

(a) immediately before the commencement of this Act, a public leader has an interest in a contract that has been made by the Government; and

(b) the contract is not completely performed by all parties within thirty days after the commencement of this Act,

the public leader shall, within thirty days after the commencement of this Act, declare the interest in accordance with this section.

(3) The interest of the spouse or spouses or of the child of a public leader in relation to the Government contract shall be deemed to be the interest of the public leader.

(4) A declaration for the purposes of this section shall be made to the Commissioner in writing.

(5) A declaration by a public leader that—

(a) states that he has an interest in a specified body corporate or firm;

(b) specifies the nature and extent of the interest;

(c) where the interest is a shareholding or partnership, specifies the proportion of the ownership of the company or firm represented by the shareholding or partnership; and

(d) states that he is to be regarded as interested in any contract which may, after the date of the notice, be made with the Government by that body corporate or firm,

shall be a sufficient declaration of interest in relation to any contract so made unless, at the time the question of confirming or entering into any contract is first taken into consideration by the Government, the extent of his interest in the body corporate or firm is greater than is stated in the declaration.

(6) For the purposes of this section, a public leader has an interest in a contract if—

(a) he will derive any material benefit, whether direct or indirect, from the contract; or

(b) one party to the contract is a firm or body corporate and he has a material interest, whether direct or indirect, in the firm or body corporate.

(7) For the purposes of paragraph (b) of subsection (6), a public leader shall not be considered to have a material interest in a body corporate by reason only that—

(a) he holds debentures of the body corporate; or

(b) he holds shares in the body corporate with a total market value of less than the

annual emoluments from office of the public leader.

Section 15, Public Leadership Code of Ethics Act 1995 (as amended)

15. Failure to make declaration, or making of false declaration under section 9

A public leader who is subject to section 9 shall be considered to have breached the Code if—

- (a) he fails, without reasonable cause, to make a declaration required by that section;
- (b) he knowingly makes a declaration under section 9 that is false or misleading in a material particular;
- (c) without reasonable cause, delays to make a declaration under section 9(1)(c).

Section 18, Public Leadership Code of Ethics Act 1995 (as amended)

18. Ethics Secretariat Cap. 2; Act No. 5 of 2001 ss. 7 and 8

(1) The Ethics Secretariat, which is established by section 132 of the Constitution of the United Republic, shall be an extra-ministerial department of Government under the Office of the President.

“(2) The Secretariat shall, subject to this Act and the relevant provision of the Constitution, have the duty to—

- (a) receive declaration which are required to be made by public leaders under the Constitution or any other law;
 - (b) receive allegations and notifications of breach of the code by all public leaders who subject to this Act;
 - (c) make inquiries into any alleged or suspected breach of the code by all public leaders who are subject to this Act;
 - (d) conduct physical verification in respect of declaration made pursuant to this Act; and
 - (e) initiate and conduct any investigation in respect of the breach of ethics prescribed under this Act.
- (3) The Secretariat shall, except for matters stipulated under subsections (4) and (5), have powers to order any person to -
- (a) attend before the Secretariat for the purpose of being interviewed, orally or in writing, in relation to any matter which may assist investigation of an alleged breach of the code;
 - (b) produce any book, document or any certified copy thereof and any article which may assist the investigation of an alleged breach of the code.
- (4) The Commissioner shall, where the Secretariat intends to conduct investigation in respect of a bank account, by order in writing supported by a warrant issued by a magistrate, authorise an officer of the Secretariat to investigate a bank account of a public leader concerned.

(5) Any Order made by the Commissioner under subsection (1) shall be sufficient authority for the disclosure or production by any person of all or any information accounts, documents or articles as may be required by the officer of the Secretariat so authorized.

(6) The President shall provide for the staffing of the Secretariat, and for the taking by them of the oath of secrecy in respect of matters handled by them.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Statistics regarding the level of compliance with the obligation to submit declarations by public leaders, as well as on declarations that raised red flags, are provided under art. 8(5).

(b) Observations on the implementation of the article

Pursuant to the Public Leadership Code of Ethics Act (PLCEA) 1995 (section 6), all public leaders, whether in elective or appointive offices, have an obligation to declare their assets and there is to be established a procedure for declaration of all property or assets and liabilities owned by them, their spouses or unmarried minor children. Declarations are made to the Ethics Commissioner, while public leaders holding elective offices file with the President (section 18). Further particulars concerning the timing and scope of required disclosures is contained in sections 9-11, 14-15, 18, and 3-4 of the Public Leadership Code of Ethics Act 1995.

Members of the public can inspect the information of declaration upon lodging a good-faith complaint against a public leader with the Ethics Commissioner and the payment of an inspection fee, as described under art. 8(5).

Statistics regarding the level of compliance with the obligation to submit declarations by public leaders, as well as on declarations that raised red flags, are provided. These suggest that, from 2009 to 2017, only a very small number of declarations raised red flags.

In addition to the above requirements, public officials *may* be required by the PCCB to declare their assets and those held by their agents, pursuant to Section 26 of the PCCA. Criminal sanctions ranging from fine to imprisonment are applicable to any public official who fails to report, or knowingly gives a false account.

Members of Parliament are further required to submit financial disclosure statements of property held by them and their spouses to the Speaker, which are transmitted to the Ethics Commissioner (Article 70, Constitution). There are also provisions regarding property and conflicts declarations by the Speaker of the National Assembly (Article 84(5), Constitution).

During the country visit it was explained that the 2016 Written Laws (Miscellaneous

Amendment) (No.2) Act introduced certain changes to the declaration requirements under the PLCEA, but that there were challenges in the interests and assets declaration regime. In particular, the receipt and verification of disclosures was difficult, as there was no e-filing system in place. Furthermore, it was explained that verification is done by the Ethics Secretariat through random sampling, by selecting a number of public leaders each year and analyzing their assets and liabilities, as well as upon initiation and termination of the public leader's term of office. Capacity constraints in the Secretariat prevented the declaration system from being fully effective.

Section 10, Public Leadership Code of Ethics Act 1995 provides that assets and interests for private use of public leaders and their families, and assets that are not of a commercial character, shall not normally be subject to public declaration divestment. Tanzania explained that the rationale for this exemption was to observe the right to property and privacy as enshrined in the Constitution, article 24(2) and article 16 respectively.

It was explained that asset disclosures of public officials may be shared with other countries through mutual legal assistance procedures, if assistance is requested for the purposes in article 4 of the Mutual Assistance in Criminal Matters Act, 1991.

In light of the challenges identified above, it is recommended that Tanzania undertake a comprehensive review of disclosure system, with a view to streamlining and modernizing it in line with international best practices, including electronic filing and enhanced monitoring and verification.

It is further recommended that Tanzania consider adopting a code of ethics and disclosure system for staff not covered under the PLCEA.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Public leaders and public officials are required under the law to declare all assets and

liabilities they own or possess, it does not matter where the assets are located (or bank accounts were opened). The declarations of those foreign interests are made through Form No. PL1 under sections 9 and 11 of PLCEA No. 13 of 1995, available at www.ethicssecretariat.go.tz.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

(b) Observations on the implementation of the article

Tanzania referred to the requirements under sections 9 and 11 of PLCEA. It is noted that, although public leaders are required under the law to declare all assets and liabilities they own or possess, regardless of where the assets are located, this only applies to assets held (owned or possessed) by the public leaders. It does not include reporting a control or other authority, such as a signature authority, over a foreign bank account.

It is recommended that Tanzania consider adopting measures requiring public officials to report foreign financial accounts and to maintain appropriate records related to such accounts.

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 62 of the Civil Procedure Code, 1966

62. When foreign State may sue

(1) A foreign State which has been recognized by the Government of Tanzania may sue in any court of Tanganyika if the object of the suit is to enforce a private right vested in

the head of such State or in any officer of such State in his public capacity.

(2) Every court shall take judicial notice of the fact that a foreign State has or has not been recognized by the Government of Tanzania.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics

(b) Observations on the implementation of the article

Article 53 (a) concerns measures for direct recovery of assets through civil action. This provision complements the recovery of proceeds from corruption by way of confiscation and obliges States to recognise in their legal systems the right of harmed States to seek direct recovery through private civil actions of property, compensation or damages. Such civil litigation could be asset-based (claims in rem) or tort-based.

During the country visit, Tanzanian officials explained that there are no legal provisions that explicitly permit a foreign State to initiate civil proceedings in Tanzanian courts to establish the foreign State's title to or ownership of property. Section 62 of the Civil Procedure Code is limited to the enforcement of private rights vested in foreign heads of State or public officials. In the absence of a legal provision that explicitly permits a foreign State to initiate civil proceedings in Tanzanian courts, the general principles on legal standing are applied.

The authorities further confirmed that there is nothing in the domestic law that would preclude a foreign country from initiating a domestic suit, subject to Tanzanian legal principles.

There have been no relevant cases where a foreign State initiated a civil proceeding in Tanzanian courts.

In its response, Tanzanian officials indicated that the legislation concerning corruption and other related offences must be reviewed and reformed to accommodate the current situation under the article reviewed.

This subparagraph of the article has been partly implemented. It is recommended that Tanzania specify in the law recovery mechanisms for injured parties to establish title or ownership of property, through domestic civil proceedings, to fully align its legislation with this part of the Convention.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Generally, the laws of the United Republic of Tanzania prescribe compensation for the victims of economic crimes, corruption inclusive. The victim here can be any person. In that regard, Section 61, Economic and Organized Crime Control Act, Cap. 200 provides such remedy. The section reads thus:

Section 61, Economic and Organized Crime Control Act 1984

“61. Orders for compensation, restitution, etc

(1) Where the Court is satisfied that the commission of the economic offence of which a person is convicted involved or caused or is likely to cause any injury or damage to any person, body of persons or other authority or to the property or interest in the property of any person, body of persons or other authority, the Court may:

- (a) Order that the person convicted pay such compensation for the injury or damage concerned as it may deem just;
- (b) Order the person convicted or any other person concerned to divest himself of any direct or indirect interest in any enterprise;
- (c) Impose such restriction as it may consider reasonable on the future activities or investments of the person convicted or any other person, including, but not limited to, prohibiting any person from engaging in the same type of endeavour as the enterprise engaged in, the activities of which facilitated or were connected to the commission of the economic offence in question, or do otherwise affect internal trade or foreign commerce; or
- (d) Order the dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons; or
- (e) Make any other order in respect of the convicted person or his property, for the purposes of providing for adequate restitution of any public property or interest injured or damaged, and for the better control, averting, reduction or eradication of economic and organized crime.

(2) In making an order under subsection (1) involving the attachment of the property of any person, the Court shall comply with the provisions of section 48 of the Civil Procedure Code Act.

(3) An order made under subsection (1) shall be filed by the person or authority in whose favour it is made in the district court having jurisdiction over the area in which the convicted person, or the person against who it is made, ordinarily resides or in which the property concerned is situated, and upon being so filed the order shall be deemed to be a

decree passed by the district court and may be executed in that same manner as if it were a decree passed under the provisions of the Civil Procedure Code and the district court shall have jurisdiction to execute the decree notwithstanding that the value of the property or the amount of the compensation awarded exceeds the pecuniary jurisdiction of the district court.

(4) For the purposes of this section, the Court may at any time pending the determination of any proceedings, upon the application of the prosecution or of any other person or authority injured in his business or property by reason of the acts of the accused person, enter such restraining orders, prohibitions or injunctions, or take such other actions including the acceptance of satisfactory performance bonds, as it may deem just.

(5) Where an application is made under subsection (4) for the exercise by the Court of its powers under that subsection, the Court shall not make any order in favour of the applicant unless he proves the damage or injury and his own non-contribution to its occurrence or causation."

Section 348, Criminal Procedure Act

348. Power to order accused to pay compensation

(1) Where an accused person is convicted by any court of any offence not punishable with death and it appears from the evidence that some other person, whether or not he is the prosecutor or a witness in the case, has suffered material loss or personal injury in consequence of the offence committed and that substantial compensation is, in the opinion of the court, recoverable by that person by civil suit, the court may, in its discretion and in addition to any other lawful punishment, order the convicted person to pay to that other person such compensation, in kind or in money, as the court deems fair and reasonable.

(2) Where any person is convicted of any offence under Chapters XXVII to XXXII of the Penal Code, the power conferred by subsection (1) shall be deemed to include a power to award compensation to any bona fide purchaser of any property in relation to which the offence was committed for the loss of such property if the property is restored to the possession of the person entitled thereto.

(3) Any order for compensation under this section shall be subject to appeal if an order for the payment of a fine of a similar amount would have been subject to appeal and no payment of compensation shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision on the appeal.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Currently there are no statistics on the matter.

(b) Observations on the implementation of the article

The Economic and Organized Crime Control Act of Tanzania as well as the Criminal Procedure Act of Tanzania provide the possibility for the courts to order those who have committed crimes, including corruption related offences, to pay compensation or

damages to a victim, which may be another State party that has been harmed by such crimes.

Although there have been no cases where an offender was ordered to pay compensation to a foreign State, it was explained that there have been many domestic cases where the courts have ordered compensation or damage payable to the Government of Tanzania and to legal persons. The same principles would apply in the case of foreign States. The law does not distinguish between natural and legal persons in terms of legal standing to file a claim or obtain an order of compensation, as the term “person” includes both natural and legal persons.

Generally, it can be concluded that Tanzania has legislatively implemented the above-mentioned requirement.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party’s claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The answers here are similar to answers provided above under article 53 (a). However, this will always depend on the information received from the foreign authority.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Currently we have no written statistics on corruption cases

(b) Observations on the implementation of the article

The paragraph requires States parties to provide legal standing (civil or criminal) to other States parties to claim, as legitimate owner in a confiscation procedure, ownership over assets acquired through the commission of a Convention offence.

The information under subparagraphs (a) and (b) is referred to.

In Tanzania, there are no measures that mandate the recognition of a foreign State as a legitimate owner when domestic courts/competent authorities have to decide on the confiscation of property acquired through an offence. However, the rights of bona fide third parties are recognized. In any given proceedings a State party could be a bona fide third party.

While Tanzanian law allows the court to order accused/convicted persons to pay compensation to the victim of an offence, be it citizens or non-citizens, there is no provision in the law that gives legal standing to a foreign State to establish ownership of property or claim compensation or damages.

Further, there have been no cases where a foreign State was recognized as a claimant in a confiscation proceeding.

This subparagraph of the article has not been implemented. It is recommended that Tanzania specify in the law recovery mechanisms giving injured parties legal standing to establish ownership of property and claim compensation in domestic confiscation proceedings.

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

a) Insofar as the Mutual Assistance in Criminal Matters Act is concerned, section 4 of the said Act provides that mutual legal assistance in criminal matters (MLA) includes the forfeiture or confiscation of property in respect of criminal offences, the recovery of pecuniary penalties in respect of offences, the restraint of dealings in property or

the freezing of assets, as well as interim measures leading to confiscation (text cited above under Article 51). Part VI of the Act covers MLA in respect of proceeds of crime, and section 32 (quoted below) provides for the registration and enforcement of foreign court orders.

- b) Part II (Forfeiture and Confiscation) of the Proceeds of Crime Act 1991, as amended by the provisions of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018, is applicable by virtue of Section 18 of the Proceeds of Crime Act. The section states as follows:

18. Registered foreign forfeiture orders

(1) Where a foreign forfeiture order is registered with the High Court in terms of Part VI of the Mutual Assistance Act, this Part shall, mutatis mutandis, apply in relation to the foreign order.

(2) Any property in relation to which a foreign forfeiture order has been registered in terms of subsection (1) may be disposed of or otherwise be dealt with in accordance with any direction of the Director of Public Prosecutions or of a person authorized by the Director of Public Prosecutions in writing for that purpose.

- c) Section 32 (1) of the Mutual Assistance in Criminal Matters Act, as amended by the provisions of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018, sets out the procedures of enforcing a foreign judgment, which is made through the authority of the Director of Public Prosecutions, who makes an application to the High Court. The said section (section 32) states as follows:

32. Registration of order.

(1) Where -

(a) an appropriate authority of a foreign country requests the Director of Public Prosecutions to make arrangements for the enforcement of -

(i) A foreign forfeiture order made in respect of a foreign serious offence against a property that is believed to be located in Tanzania; or

(ii) A foreign pecuniary penalty order made in respect of a foreign serious offence where some or all of the property available to satisfy the order is believed to be located in Tanzania Mainland; and

(b) The Director of Public Prosecutions is satisfied that:

(i) the forfeiture order or pecuniary penalty order was properly made against the person; and

(ii) the forfeiture order or pecuniary penalty order is not subject to appeal in the foreign country,

the Director of Public Prosecutions may, upon application, obtain the registration of the order with the High Court.

(2) Where an appropriate authority of a foreign country requests the Director of Public Prosecutions to make arrangements for the enforcement of a foreign restraining order issued in respect of a foreign serious offence against a property that is believed to be

located in Tanzania, the Director of Public Prosecutions may, on application, obtain the registration of the order by the High Court.

(3) If, on an application in terms of subsection (1) or (2), the High Court is satisfied from the documents filed on record, or from any other evidence, that the foreign forfeiture order, the foreign penalty order or the restraint order was properly made against the person concerned, the High Court may register the order.

(4) The High Court may regard any evidence adduced in a foreign court as conclusive of any matter or fact stated in the documents.

(5) Where the High Court refuses to register the order under subsection (3), the refusal order shall be appealable as if it were an order made under Proceeds of Crimes Act.

(6) A forfeiture order registered with the High Court in terms of this section shall have effect and may be enforced, as if it were a forfeiture order made by a court under the Proceeds of Crime Act at the time of registration.

(7) A pecuniary penalty order registered with the High Court in terms of this section shall have effect, and may be enforced, as if it were a pecuniary penalty order made by a court under the Proceeds of Crime Act at the time of registration and requiring the payment to Tanzania of the amount payable under the order.

(8) A restraining order registered with the High Court in terms of this section shall have effect, and may be enforced, as if it were a restraining order made by a court under the Proceeds of Crime Act at the time of registration.

(9) Where any order is registered with the High Court in terms of this section, any amendments made to the order, whether before or after registration, may be registered in the same way as the order and amendments shall not, for the purposes of this Act and the Proceeds of Crime Act have effect until they are registered.

(10) A sealed or authenticated copy of an order or amendment shall be regarded for the purposes of this Act as the same as the sealed or authenticated original copy but registration effected by means of a copy shall cease to have effect at the end of twenty-one days unless the sealed or authenticated original copy has been subsequently registered or time has been extended by the court.

(11) The Director of Public Prosecutions may apply to the High Court for the amendment of the application or the cancellation of any registration made in terms of this section.

(12) Without prejudice to the generality of subsection (11), the Director of Public Prosecutions may apply for a cancellation in terms of that subsection if he is satisfied that -

(a) The order has ceased to have effect in the foreign country in which it was made; or

(b) The cancellation of the order is appropriate having regard to the arrangements entered into between the United Republic and the foreign country in relation to enforcement of orders of the kind.

(13) Where an application is made to the High Court for cancellation of a registration in terms of subsection (12), the High Court shall cancel the registration accordingly.

The law does not impose any limitation or restriction insofar as the foreign order is concerned. What matters is that the offences committed are well within the meaning of the domestic laws. It is when the execution/enforcement can take place.

The above provisions are also fortified by the provisions of sections 24, 54 and 57 of the Proceeds of Crime Act 1991.

24. Amounts paid in respect of registered foreign pecuniary penalty orders

Where a foreign pecuniary penalty order is registered in a court in the United Republic under the Mutual Assistance Act, any amount paid, whether in the United Republic, in the foreign country in which the order was made or elsewhere, in satisfaction of the foreign pecuniary penalty order, shall be taken to have been paid in satisfaction of the debt that arises by reason of the registration of the foreign pecuniary penalty order in that court.

54. Registered foreign restraining orders

Where a foreign restraining order has been registered with the High Court in terms of the Mutual Assistance Act, the provisions of this Part relating to restraining orders shall, subject to sections 55 and 56 mutatis mutandis, apply in relation to registered foreign restraining orders.

57. Discharge of registered foreign pecuniary penalty

(1) Where—

(a) a foreign restraining order is registered in the United Republic in respect of property of a person convicted of or alleged to have committed, a foreign serious offence; and

(b) a foreign pecuniary penalty order against the person is registered in the United Republic in relation to the matter; and

(c) the property is in the custody, or under the control, of a trustee;

the court in which the foreign pecuniary penalty order is registered may direct the trustee to pay to the United Republic an amount equal to the penalty amount out of the property.

(2) For the purposes of subsection (1) the court may—

(a) direct the trustee to sell or otherwise dispose of such of the property under his control as the court may specify; and

(b) authorise the trustee to execute any deed or instrument in the name of the person who owns or has an interest or right in the property.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics provided

(b) Observations on the implementation of the article

The laws of Tanzania (Mutual Assistance in Criminal Matters Act; Proceeds of Crime Act) allow the relevant Tanzanian authorities to give effect to an order of confiscation issued by a court of a foreign country. Namely, when the foreign forfeiture or pecuniary penalty order is submitted to the Tanzanian authorities, the Director of Public Prosecutions (NPS) or the person authorised by him/her is entitled to make an application to the High Court for purposes of enforcement and in this way, request the execution of the order. This is the case when the forfeiture order or pecuniary penalty order was properly made against the person and is not subject to appeal in the foreign country. Based on the submitted application, the High Court may order the execution of the foreign confiscation order. Confiscation in Tanzania is possible for property obtained through the commission of a crime abroad (including corruption related offences), as well as for the value of the assets, which is equivalent to that obtained through criminal activities.

The provisions of POCA providing for the enforcement of foreign forfeiture orders, foreign pecuniary penalty orders and foreign restraining orders apply to “serious offences” and “foreign serious offences”, which include offences established in accordance with this Convention, as per the definitions in section 3 of POCA¹⁰:

"foreign forfeiture order" means a forfeiture order made under the law of a foreign country and registered in the United Republic in terms of section 32 of the Mutual Assistance Act, for enforcement against property believed to be located in the United Republic in respect of a foreign serious offence;

"foreign pecuniary penalty order" means an order made under the law of a foreign country and registered in the United Republic in terms of section 32 of the Mutual Assistance Act, and which imposes a pecuniary penalty in respect of a foreign serious offence, but does not include an order for the payment of money by way of compensation, restitution or damages;

"foreign restraining order" means an order made under the law of a foreign country and registered in the United Republic in terms of section 32 of the Mutual Assistance Act, for enforcement against property believed to be located in the United Republic in respect of a foreign serious offence;

"foreign serious offence" means a serious offence committed against the law of a foreign country;

"serious offence" means an offence against provisions of any law in Tanzania of which the maximum penalty is death or imprisonment for a period of not less than twelve months and includes any offence in which property has been used or proceeds have been generated or benefits have been derived.

Similar definitions apply to section 32 of MACMA¹¹, as per section 2 thereof:

"foreign serious offence" means a serious offence against a law of a foreign country;

"serious offence" has the meaning ascribed to it under the Proceeds of Crimes Act;

The provision is legislatively implemented. However, as noted under article 51, assistance under the MACMA is limited to countries designated by order of the Minister published

¹⁰ As amended by the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018

¹¹ The Written Laws (Miscellaneous Amendments) (No. 2) Act 2018

in the Gazette as countries with which reciprocal arrangements for MLA have been made. The recommendations made under article 51 are referred to.

It was explained that there have been no concluded cases involving the enforcement of a foreign confiscation order to date.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The information provided herein above under article 54(1) (a) applies to this provision as well.

Moreover, according to the Anti-Money Laundering Act a conviction of the predicate offence is not needed to charge a person with money laundering. A money laundering offence is a stand-alone offence. A person can be charged with money laundering or the predicate offence or both, depending on the evidence to be proved in court.

Section 12 of the Anti-Money Laundering Act of 2006 sets out the elements of the money laundering offences.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

See also information provided under article 54(1) (a) herein above.

(b) Observations on the implementation of the article

Money laundering and corruption are offences that may be prosecuted domestically, and result in the confiscation of property of foreign origin.

Sections 9 and 14 of POCA permit the Director of Public Prosecutions to apply to a court for a forfeiture order where a person has been convicted of a serious offence and the court is satisfied that the property is tainted property in respect of the offence. The definition of “tainted property” makes no distinction between property of local origin and foreign origin, provided the offence is “serious”:

"tainted property", in relation to a serious offence, means-

- (a) any property used in, or in connection with, the commission of the offence;
- (b) any proceeds of the offence; or
- (c) any property in the United Republic which is the proceeds of a foreign serious offence in respect of which an order may be registered in terms of Part VI of the Mutual Assistance Act;

and when used without reference to a particular offence means tainted property in relation to an arrestable offence;

As a result, it was confirmed that Tanzanian authorities are able to order the confiscation of property of foreign origin by adjudication of a serious offence within their jurisdiction, provided the order is not subject to appeal and the property is proven to be tainted property.

Furthermore, under the Tanzanian law, for the purpose of qualification of criminal conduct as a crime of money-laundering, it is not required for a person to be convicted of a predicate offence. This means that the relevant Tanzanian authorities can conduct proceedings with respect to money-laundering and through this order the confiscation of property of foreign origin.

There have been no concluded cases involving the confiscation of foreign proceeds for purposes of mutual legal assistance to date, although it was explained that some cases were under investigation at the time of review.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As the general rule the system of asset recovery in Tanzania is a conviction based system. However, the law provides for some cases to accommodate non-conviction based forfeiture. This applies in situations, such as where a person is nowhere to be seen or found, has absconded or died. His or her property acquired illicitly shall be forfeited though an application made by the Director of Public Prosecutions (NPS) to forfeit the said property.

Section 4 of the Proceeds of Crime Act 1991 states as follows:

4. Meaning of "conviction" etc. of offence

(1) For the purposes of this Act a person shall be taken to be convicted of an offence if:

- (a) He is convicted, whether summarily or otherwise, of the offence;
- (b) He is charged with, and found guilty and convicted of the offence but is discharged conditionally or unconditionally or pardoned; or
- (c) The person absconds in connection with the offence.

Section 5 of the Proceeds of Crime Act 1991, as amended by the Written Laws (Miscellaneous Amendments) (No. 2) Act of 2012, states as follows:

5. Meaning of "absconding"

For the purposes of this Act, a person shall be taken to abscond in connection with an offence if and only if:

- (a) An information is laid alleging the commission of the offence by the person;
- (b) A warrant for the arrest of the person is issued in relation to that information; and
- (c) One of the following occurs, namely:
 - (i) The person dies before the warrant is executed;
 - (ii) At the end of a period of six months from the date of issue of the warrant:
 - (aa) The person cannot be found; or
 - (bb) The person is, for any other reason, not amenable to justice and, if the person is outside the United Republic, extradition proceedings are not instituted;
 - (iii) At the end of the period of six months from the date of issue of the warrant:
 - (aa) The person is, by reason of being outside the United Republic, not amenable to justice; and
 - (bb) Extradition proceedings are instituted, and subsequently those

proceedings terminate without an order for the person's extradition being made.

Section 19 of the Written Laws (Miscellaneous Amendment) Act No. 2 of 2012 states that: “(1) Where a person dies while under investigation or after being charged but before conviction, the Attorney General may apply to the Court for a Confiscation order.

(2) The Court may grant an Application for confiscation order where it is satisfied, on balance of probabilities that:

- (a) A person was under investigation when he died and reasonable steps have been taken to conduct investigation of an offence alleged to have been committed
- (b) A person has been charged but dies before the conclusion of the trial and there are reasonable grounds to believe that a confiscation order would have been issued against that person if he was alive.”

Section 9 of the Proceeds of Crime Act 1991 states as follows:

9. Application for confiscation order

Where a person is convicted of a serious offence, the Director of Public Prosecutions may, subject to subsection (2), apply to the convicting court, or to any other appropriate court, not later than six months after the conviction of the person, for:

- (a) A forfeiture order against any property that is tainted property in respect of the offence; or
- (b) A pecuniary penalty order against the person in respect of any benefit derived by the person from the commission of the offence.

(2) The Director of Public Prosecutions shall not, except with the leave of the court, make an application in terms of subsection (1) for a forfeiture order or a pecuniary penalty order- if an application has previously been made under that subsection or in terms of any other enactment; and the application has been finally determined on the merits.

(3) The court shall not grant leave in terms of subsection (2) unless it is satisfied that:

- (a) The tainted property, or the benefit to which the new application relates was identified only after the first application was determined;
- (b) Necessary evidence became available only after the first application was determined; or it is otherwise in the interests of justice to grant the leave.

(4) An application may be made under this section in relation to one or more than one arrest able offence.

(5) An application may be made in terms of this section for a pecuniary penalty order in respect of an offence even if section 26 applies to the offence.

Section 10 of the Proceeds of Crime Act 1991 further states as follows:

10. Notice of application

Where the Director of Public Prosecutions makes an application in terms of subsection (1) of section 9 for a forfeiture order against property in respect of a person's conviction of an offence:

- (a) The Director of Public Prosecutions shall within fourteen days give written notice of the application to the person or to another person he has reason to believe may have an interest in the property;
 - (b) The person, and any other person who claims an interest in the property, may appear and adduce evidence at the hearing of the application; and
 - (c) The court may, at any time before the final determination of the application, direct the Director of Public Prosecutions to give notice of the application to a specified person or class of persons who appear to have an interest in the property in a manner and within such time, as the court considers appropriate.
- (2) Where the Director of Public Prosecutions makes an application for a pecuniary penalty order against a person:
- (a) The Director of Public Prosecutions shall within fourteen days give the person written notice of the application; and
 - (b) The person may appear and adduce evidence at the hearing of the application.

Section 12. Making of confiscation order where person has absconded

Where a person is, arrestable by reason of section 4(1)(c), taken to have been convicted of arrestable offence, a court shall not make a confiscation order in reliance on the person's conviction of the offence unless the court is satisfied, on the balance of probabilities, that the person has absconded and:

- (a) a person was under investigation for the offence¹²;
- (b) The person has been committed for trial for the offence; or
- (c) The court is satisfied that having regard to all the evidence before it, a reasonable court could lawfully find the person guilty of the offence.

The procedure for making the application is provided in section 13 of the Proceeds of Crime Act 1991. **Forfeiture orders** are made through section 14 of the Proceeds of Crime Act, which states as follows:

Section 14. Forfeiture orders

- (1) Where the Director of Public Prosecutions applies to a court for a forfeiture order under section 9 against property in respect of a person's conviction of an offence and the court is satisfied that the property is tainted property in respect of the offence, the court may if it considers it appropriate, order that the property or such of the property as it may specify in the order, be forfeited to the United Republic.
- (2) Where the court orders that property other than money is forfeited to the United Republic, it shall specify in the order the amount that it considers to be the value of the

¹² As amended by the Written Laws (Miscellaneous Amendment) Act No. 2 of 2012.

property at the time the order is made.

(3) In granting an application for a forfeiture order in respect of any property, the court may have regard to:

- (a) Any hardship that may reasonably be expected to be caused to any person by the operation of such an order;
- (b) The use that is ordinarily made, or was intended to be made, of the property; and
- (c) the gravity of the offence concerned.

(4) Any evidence given at the hearing of the application for a forfeiture order in respect of any property that the property concerned was in the possession of the convicted person at the time of, or immediately after, the commission of the offence and no evidence is given to show that the property was not used in, or in connection with, the commission of the offence, the court shall assume that the property was used in, or in connection with, the commission of the offence.

(5) In granting an application for a forfeiture order, the court may give any directions necessary or convenient for giving effect to the order, including, without limiting the generality of the foregoing, directions to an officer of the court to do anything necessary and reasonable to obtain possession of any document necessary for the transfer of any property subject to registration in the Registry of Titles.

(6) In granting a forfeiture order the court may, if it is satisfied that it would be in the public interest for a person's interest in the property to be transferred to him, determine the nature, extent and value of the interest and declare that the forfeiture order may, to the extent to which it relates to the interest, be discharged in accordance with section 30.

For purpose of mutual legal assistance, execution is through section 32 of the Mutual Assistance in Criminal Matters Act (quoted under article 54 (1) (a) herein above).

Under the MACMA, as amended, a conviction is not required to register the foreign order, provided the Director of Public Prosecutions (NPS) is satisfied that the order was properly made against the person and is not subject to appeal in the foreign country (section 32(1)(b) of MACMA).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

In the case of *Attorney General vs. Pastory Francis Mayila*, Criminal Application No.17 of 2016, Application for Forfeiture Orders, the accused absconded before trial and his properties were confiscated. A copy of the judgment was provided to the reviewers.

(b) Observations on the implementation of the article

As a general rule the system of asset recovery in Tanzania is conviction based. However, in some domestic cases non-conviction based (NCB) confiscation may also be applied. This is in situations where the person dies, absconds or his/her whereabouts are undetermined. In such cases the Director of Public Prosecutions (NPS) may address the

court with an application to confiscate property. Following the relevant procedures, the decision on confiscation is made by the court.

As an example, the Tanzanian authorities provided the decision on confiscation in the case of *Attorney General vs. Pastory Francis Mayila* where the accused absconded before trial and his assets were confiscated.

For purposes of mutual legal assistance, a conviction is not required to enforce a foreign forfeiture or pecuniary penalty order, provided the Director of Public Prosecutions (NPS) is satisfied that the order was properly made against the person and is not subject to appeal in the foreign country (section 32(1)(b) of MACMA, as amended).

While the recent amendments to MACMA eliminate previous restrictions on allowing confiscation in the absence of a conviction, under the domestic legislation non-conviction based confiscation continues to be possible only under the limited circumstances provided in POCA. **It is recommended that Tanzania consider expanding the grounds on which confiscation may be obtained in the absence of conviction under the national legislation (POCA).**

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Sections 4, 9, 13 and 33-35 of the Mutual Assistance in Criminal Matters Act.

Sections 37, 31A, 54 and 57 (quoted above) of the Proceeds of Crime Act also apply.

Section 4 of the Mutual Assistance in Criminal Matters Act provides as follows

4. Aspects of mutual assistance

For the purposes of this Act, mutual assistance in criminal matters shall include:

- (a) The obtaining of evidence, documents or other articles;
- (b) The provision of documents and other records;
- (c) The location and identification of witnesses or suspects;
- (d) The execution of requests for search and seizure;
- (e) The making of arrangements for persons to give evidence or assist in investigations;
- (f) The forfeiture or confiscation of property in respect of offences;
- (g) The recovery of pecuniary penalties in respect of offences;
- (h) The restraint of dealings in property, or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences;
- (i) preserving and obtaining all forms of computer and telecommunication data;
- (j) interception of postal items;
- (k) interception of communications data;
- (l) covert electronic surveillance;
- (m) facilitating the taking of evidence by video conference;
- (n) The location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences and
- (o) The service of documents.

Section 9 of the Mutual Assistance in Criminal Matters provides that:

9. Request for assistance by foreign country

(1) A request by the appropriate authority of a foreign country for assistance in a criminal matter shall be made to the Director of Public Prosecutions.

(2) A request made in terms of subsection (1) shall contain or be accompanied by a document giving the following information:

- (a) The name of the authority concerned with the criminal matter to which the request relates; and
- (b) A description of the nature of the criminal matter and a summary of the relevant facts and laws; and
- (c) A description of the purpose of the request and of the nature of the assistance being sought; and
- (d) Details of the procedure that the foreign country wishes to be followed by Tanzania in giving effect to the request including details of the manner and form in which any information, document or thing is to be supplied to the foreign country

- pursuant to the request; and
- (e) The wishes of the foreign country concerning the confidentiality of the request and the reasons for those wishes; and
 - (f) Details of the period within which the foreign country wishes that the request be complied with; and
 - (g) If the request involves a person travelling from Tanzania to the foreign country, details of allowances to which the person will be entitled and of the arrangements for accommodation for the person, while the person is in the foreign country pursuant to the request; and
 - “(h) the nature of the criminal matters and whether or not criminal proceedings have been instituted;
 - (i) where criminal proceedings have not been instituted, the offence which the foreign country believes has been, is being or will be committed, together with a summary of known facts;
 - (j) where criminal proceedings have been instituted-
 - (i) the court exercising jurisdiction in the proceedings;
 - (ii) the identity of the accused person;
 - (iii) the offence of which the person stands accused, and a summary of the facts and the penalties which may be imposed;
 - (iv) the stage reached in the proceedings; and
 - (v) any date fixed for further stages in the proceedings;
 - (k) Any other information required to be included with the request under a treaty or other arrangement between Tanzania and the foreign country; and
 - (l) Any other information that may assist in giving effect to the request; but failure to comply with this subsection shall not be a ground for refusing the request.

Section 13, Mutual Assistance in Criminal Matters Act 1991 states that:

13. Requests by foreign countries for search and seizure

(1) Whereby

- (a) Proceedings have, or an investigation relating to a criminal matter involving a serious offence has, commenced in a foreign country; and
- (b) There are reasonable ground to believe that a thing relevant to the proceedings or investigation is located in Tanzania; and
- (c) The appropriate authority of the foreign country requests the Director of Public Prosecutions to arrange for the issue of a search warrant in terms of this section in relation to that thing,

the Director of Public Prosecutions may, in writing, authorize a police officer to apply to a magistrate in the area in which that thing is believed to be located for the search warrant requested by the foreign country.

(2) Where a police officer authorized under subsection (1) has reason to believe that the thing to which the request relates is or will be, at a specified time:

- (a) On a person; or
- (b) In the clothing that is being worn by a person; or
- (c) Otherwise in a person's immediate control;

the police officer may lay before a magistrate information on oath setting out the grounds for that belief and apply for the issue of a warrant in terms of this section to search the person for that thing.

(3) Where an application is made in terms of subsection (2), the magistrate may, subject to subsection (6), issue a warrant authorizing a police officer:

- (a) To search the person for the thing; and
- (b) To seize anything found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceedings or investigation.

(4) Where a police officer authorized in terms of subsection (1) has reason to believe that the things to which the request relates is or will be at a specified time, upon any land or in any premises, the police officer may:

- (a) Lay before a magistrate information on oath setting out the grounds for that belief and
- (b) Apply for the issue of a warrant in terms of this section to search the land or premises for that thing.

(5) Where an application is made in terms of subsection (4), the magistrate may, subject to subsection (6), issue a warrant authorizing a police officer:

- (a) To enter upon the land, or upon or into the premises; and
- (b) To search the land or premises for the thing; and
- (c) To seize anything found in the course of the search that the police officer believes, on reasonable ground, to be relevant to the proceedings or investigation.

(6) A magistrate shall not issue a warrant in terms of this section unless:

- (a) The information or some other person has given to the magistrate, either orally or by affidavit, such further information, if any as the magistrate may require concerning the grounds on which the issue of the warrant is sought; and
- (b) The magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(7) There shall be stated in a warrant issued in terms of this section:

- (a) The purpose for which the warrant is issued, including a reference to the nature of the criminal matter in relation to which the search is authorized; and
- (b) Whether the search is authorized at any time of the day or night or during specified hours of the day or night; and
- (c) A description of the kind of things authorized to be seized; and

- (d) A day, not being later than one month after the issue of the warrant, on which the warrant ceases to have effect.
- (8) If in the course of searching under a warrant issued in terms of this section for a thing of a kind specified in the warrant, the police officer finds another thing that the Police officer believes on reasonable grounds:
- (a) To be relevant to the proceedings or investigation in the foreign country or to afford evidence as to the commission of an offence in Tanzania; and
 - (b) Is likely to be concealed, lost or destroyed if it is not seized -the warrant shall be deemed to authorize the police officer to seize the other thing.
- (9) Where a police officer finds, as a result of a search in accordance with a warrant issued in terms of this Section, a thing which the police officer seizes wholly or partly because he believes on reasonable grounds the thing to be relevant to the proceedings or investigation in the foreign country, the police officer shall deliver the thing into the custody and control of the Inspector General of Police.
- (10) Where a thing is delivered into the custody and control of the Inspector-General of Police in terms of subsection (9) the Inspector General of Police shall arrange for the thing to be kept for a period not exceeding one month from the day on which the thing was seized, pending a direction in writing from the Director of Public Prosecutions as to the manner in which the thing is to be dealt with, which may include a direction that the thing be sent to an authority of a foreign country.
- (11) A police officer who executes a search warrant issued in terms of subsection (3) or (5) shall, as soon as practicable after the execution of the warrant, give to the person searched, or to the owner or occupier of the land or premises searched, or leave in a prominent position on such land or at such premises, as the case requires, a notice setting out:
- (a) The name and rank of the police officer; and
 - (b) The name of the magistrate who issued the warrant issued the day on which it was issued; and
 - (c) A description of anything seized and removed in accordance with the warrant.
- (12) A police officer acting, in accordance with a warrant issued in terms of subsection (3) may remove, or require a person to remove, any of the clothing that the person is wearing but only if the removal of the clothing is necessary and reasonable for an effective search of the person in terms of the warrant.
- (13) A person shall not be searched under a warrant issued in terms of subsection (13) except by a person of the same sex and the search shall be conducted with strict regard to decency.
- (14) Nothing in this section shall be taken to authorize a police officer, in executing a warrant issued in terms of subsection (3), to carry out a search by way of an examination of a body cavity of a person.
- (15) Where a police officer is authorized under a warrant issued in terms of subsection (13) to search a person, the police officer may also search:
- (a) The clothing that is being worn by the person; and

- (b) Any property in, or apparently in, the person's immediate control.

Section 33. Requests for search and seizure warrants in respect of tainted property

(1) Where-

(a) criminal proceedings or criminal investigations have commenced in a foreign country in respect of a foreign serious offence;

(b) there are reasonable grounds for believing that tainted Property in relation to the offence is located in Tanzania; and

(c) the appropriate authority of the foreign country requests the Director of Public Prosecutions to obtain the issue of a search warrant under the Proceeds of Crime Act, 1991, in relation to the tainted property,

the Director of Public Prosecutions may, in writing, authorise a police officer to apply to a magistrate of the area concerned for the search warrant requested by the appropriate authority of the foreign country.

(2) The area shall be the area in which the tainted property, or some or all of the tainted property, is believed to be located.

Section 34. Requests for interim restraining orders

Where-

(a) criminal proceedings have commenced in a foreign country in respect of a foreign serious offence;

(b) there are reasonable grounds for believing that tainted property that may be made, or is about to be made, the subject of an interdict is located in Tanzania; and

(c) the appropriate authority of the foreign country requests the Director of Public Prosecutions to obtain the issue of an interdict under the Proceeds of Crime Act, 1991, against the property,

the Director of Public Prosecutions may authorize an application to the High Court for the issue of the interdict requested by the appropriate authority of the foreign country.

Section 35. Requests for information gathering orders¹³

35. Where-

(a) criminal proceedings or criminal investigations have commenced in a foreign country in respect of a foreign serious offence; and

¹³ As amended by the Written Laws (Miscellaneous Amendments) (No.2) Act 2018

(b) the appropriate authority of a foreign country requests the United Republic to obtain information about the property or any other information which is reasonably believed to be relevant to proceedings or investigation,

the Director of Public Prosecutions may, in writing, authorise the head of an investigating agency to obtain information requested in accordance with the provisions of the Proceeds of Crimes Act or any other written laws.

Section 37, Proceeds of Crime Act

37. Search for and seizure of tainted property in relation to foreign offences.

(1) Where a police officer is authorized under the Mutual Assistance Act to apply to a magistrate for a search warrant under this Act in relation to tainted property in respect of a foreign serious offence, the provisions of this Part shall, mutatis mutandis, apply in relation to the application for the search warrant.

(2) If, in the course of searching for tainted property in relation to a foreign serious offence, a police officer finds:

- (a) Any property which he believes, on reasonable grounds, to be tainted property in relation to the foreign serious offence although not of the kind specified in the warrant;
- (b) Any property which he believes, on reasonable grounds, to be tainted property in relation to another foreign serious offence in respect of which a search warrant is in force; or
- (c) Anything which he believes, on reasonable grounds:
 - (i) To be relevant to criminal proceedings in the foreign country in respect of the foreign serious offence; or
 - (ii) Will afford evidence as to the commission of a criminal offence; and he believes, on reasonable grounds, that it is necessary to seize that property or thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or any other offence, the warrant shall be deemed to authorize the police officer to seize that property or thing.

(3) Any person who claims an interest in property seized under a warrant issued in respect of a foreign serious offence may apply to court for an order the property be returned to him.

(4) On an application in terms of subsection (3), if the court is satisfied that:

- (a) The person is entitled to the property; and
- (b) The property is not tainted property in relation to the foreign serious offence; the court shall order the Inspector-General of Police to return the property to that person.

(5) Where property has been seized in respect of foreign serious offence and, at the end or thirty days after the day on which the property was seized:

- (a) Neither a foreign interdict nor a foreign forfeiture order in relation to the property

has been registered in accordance with the Mutual Assistance Act; and

- (b) An interim restraining order has not been issued in terms of this Act in relation to the foreign serious offence; the Inspector-General of Police shall arrange for the property to be returned to the person from whose possession it was seized as soon as practicable after the expiry of that period.

In respect of freezing of accounts, section 31A of the Proceeds of Crime Act, as amended, provides:

31A. Freezing of bank account

(1) Where the Inspector General of Police or the Director of Criminal Investigation suspects on reasonable grounds that any person has been involved in the commission of a serious offence, he may authorise and direct a police officer of the rank of Assistant Superintendent of Police or above to freeze a bank account and seize any document from that bank or financial institution for fourteen days during which leave of the court for continued seizure and freezing shall be obtained.

(2) Upon application, the court may order extension of a period of seizure or freezing an account where there are reasonable grounds to suspect that the money held in the account is related to the commission of a serious offence.

(3) Where the court orders an extension of period of seizure or freezing of an account under sub section (2), it may, at any later time vary or set aside that order where the continued seizure or freezing is no longer required or upon production of additional evidence, and where the court is satisfied that money held into the account is not related to the commission of a serious crime.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

There have been cases of restraint of foreign proceeds located in Tanzania on the basis of mutual legal assistance requests from other States parties.

A copy of the judgment in the case of *Attorney General v. Paula Susan White* (Misc. Cr. App. No. 85 of 2016), High Court of Tanzania-Dar es Salaam, was provided. The case involved an application by the Attorney General of Tanzania in the High Court to register a foreign interdict (restraint) order issued by the Crown Court in the United Kingdom to restrain or freeze funds in bank accounts maintained by the defendant in Tanzania. The application was made based on a request to register the foreign restraint order received from the UK. The defendant had been convicted of drug offences in the UK. The court granted the application and Tanzanian authorities enforced the restraint order. No request for confiscation had been received from the UK at the time of the country visit.

In term of overall statistics, as noted under article 51, since 2017, there have been 5 incoming requests relating to the tracing, restraint or confiscation of assets located in Tanzania. Although there have been no concluded asset recovery cases to date, Tanzania has successfully restrained foreign assets located in Tanzania. Most of the incoming requests were still ongoing at the time of the country visit.

(b) Observations on the implementation of the article

The Mutual Assistance in Criminal Matters Act 1991 of Tanzania provides the following possibilities to foreign States:

- 1) Location of property;
- 2) Search and seizure of property;
- 3) Freezing of accounts or interdicting of dealings in property;
- 4) Obtaining information about bank transactions through the issuance of a monitoring order.

If a foreign State requests the conduct of the activities referred to above, its competent authorities are entitled to address the Director of Public Prosecutions of Tanzania (NPS) with the relevant mutual legal assistance request. After receiving the request in question, if it is determined that the crime is committed abroad and the property linked to the crime can be found in Tanzania, the relevant Tanzania authorities take the measures indicated above through the proceedings envisaged by the Proceeds of Crime Act of Tanzania.

There are sufficient provisions under the MACMA to provide for the restraint of property, or the freezing of assets, located in Tanzania, which may be the subject of a foreign forfeiture order made in, or which may be needed to satisfy pecuniary penalties imposed in, judicial proceedings which have been or are to be instituted. The case of *Attorney General v. Paula Susan White* (Misc. Cr. App. No. 85 of 2016), High Court of Tanzania-Dar es Salaam, evidences the successful application of these measures in practice.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if

any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 13, Mutual Assistance in Criminal Matters Act 1991 (quoted above) provides for requests by foreign countries for search and seizure

A request for search and seizure of tainted property may also be made in terms of *Section 33*, Mutual Assistance in Criminal Matters Act 1991 (quoted above).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No cases available (see above response)

(b) Observations on the implementation of the article

There are sufficient provisions in place to allow the authorities to freeze or seize property upon a request that provides a reasonable basis for believing that property located in Tanzania will be the subject of a forfeiture order made in judicial proceedings which have been or are to be instituted.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 32 of the Mutual Assistance in Criminal Matters Act, which sets out the procedures of enforcing a foreign judgment, through the Director of Public Prosecutions (NPS) by application to the High Court (as cited under Article 54 (1) (a) herein above).

Also, sections 35, 53 to 55 of the Proceeds of Crime Act apply.

Section 35 provides as follows:

35. Responsibility for seized property

Where property is seized in terms of this Part, the Inspector General of Police or other officer authorized by him in writing, shall arrange for the property to be kept and shall ensure that all reasonable steps are taken to preserve it while it is so kept until it is required for the purposes of this Act or disposed of in terms of this Act.

Section 53 states as follows:

53. Interim restraining order in respect of foreign offence

Where the Director of Public Prosecutions is authorized under the Mutual Assistance Act, to obtain the issue of a restraining order in terms of this Act in respect of a foreign serious offence, the provisions of this Part relating to the application for a restraining order shall mutatis mutandis, apply in relation to the application for a restraining order in respect of the foreign serious offence.

(2) A restraining order, granted in respect of a foreign serious offence shall cease to have effect on the expiry of a period of thirty days commencing on the day on which the order was granted.

(3) On application by the Director of Public Prosecutions before the expiry of the period referred to in subsection (2), a court may extend the period of operation of the restraining order.

(4) Where a foreign restraining order is not registered the High Court in terms of the Mutual Assistance Act, before the expiry of the period referred to in subsection (2) or (3), the order referred to in subsection (1) shall cease to have effect.

Section 54 states as follows:

54. Registered foreign restraining orders

Where a foreign restraining order has been registered with the High Court in terms of the Mutual Assistance Act, the provisions of this Part relating to restraining orders shall, subject to sections 55 and 56 mutatis mutandis, apply in relation to registered foreign restraining orders, the custody of or under the control of a trustee appointed by the court.

Section 55 states as follows:

55. Trustee to take control of property in relation to registered foreign restraining order

Where a foreign restraining order has been registered in the United Republic, the court may, upon application by the Director of Public Prosecutions, direct that the property, or any part of the property, be taken into the custody of or under the control of a trustee appointed by the court.

(2) The owner of the property or any other person whom the Director of Public Prosecutions has reason to believe may have an interest in the shall be notified in writing

of any application in terms of subsection (7)

(3) The court may, before making a direction in terms of subsection (1), direct the Director of Public Prosecutions to give or publish notice of the application to a specified person or class of persons, in such manner and within such time as the court considers appropriate.

(4) Any person who claims an interest in property in respect of which an application in terms of subsection (1) has been made may appear and adduce evidence at the hearing of the application.

(5) Where a direction in terms of subsection (1) has been made, the court may at any time make any one or more of the following orders:

- (a) An order regulating the manner in which the trustee may exercise his powers or perform his duties; or
- (b) An order determining any question relating to that property; or
- (c) An order directing the owner of the property to furnish the trustee with such particulars relating to the property as the court thinks fit.

(6) A trustee may do anything that is reasonably necessary for the purpose of preserving the property, including:

- (a) Becoming a party to any civil proceedings relating to or affecting the property; and
- (b) Ensuring that the property is insured-, and
- (c) If the property consists, in whole or in part, of a business, employing or terminating the employment of persons in the business.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No cases cited

(b) Observations on the implementation of the article

It was explained during the country visit that the framework for the preservation, management and administration of seized assets pending confiscation was presently under review. Tanzanian authorities were considering two options: 1) establishing a new office responsible for asset management in the country, and 2) assigning the asset management functions to an existing office, such as the Registration Insolvency and Trusteeship Agency (RITA), which serves as general administrator for assets in dispute for instance in marriage settlements. A bill to amend the POCA in this regard has been drafted.

It was explained that the POCA gives investigating agencies some responsibility to manage seized property. For assets that cannot be seized or administered the court may appoint a trustee (section 38(2)(b), POCA) or order the Administrator-General or any other public trustee to take care and control of property under restraint (section 38(2)(c), POCA as amended). However, there are limited budgets for asset management and difficulties in appointing trustees, due to the permissive nature of section 38. As a result,

assets are often kept in the hands of the defendant and their disposition is monitored, once a lien has been placed on the asset. There is no central process for managing assets across law enforcement agencies.

In light of the above it is recommended that Tanzania strengthen measures to preserve property for confiscation, including by strengthening the institutional setup, coupled with the necessary legal basis and resources therefore, and ensure appropriate coordination among the implementing agencies, taking into account international experience in this area.

(c) Successes and good practices

The establishment and operation of the specialized units in Tanzania dedicated to asset recovery, namely the Asset Tracing and Recovery Unit (ATRU) in the PCCB and the Asset Forfeiture and Recovery Section (AFRS) in the NPS, are noted as good practices.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to

ensure full compliance with this provision of the Convention.

Section 32 of the Mutual Assistance in Criminal Matters Act sets out the procedures of enforcing a foreign judgment (as cited under Article 54 (1) (a) herein above).

Issues relating to mutual legal assistance are covered by the Mutual Assistance in Criminal Matters Act. The application of this act to corruption cases is permitted by section 54 of the PCCA which states that: "Mutual legal assistance in relation to the offence of corruption and other related offences shall be made in accordance with the provisions of the Mutual Assistance in Criminal Matters Act (CAP 244 R.E 2002)."

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics provided.

(b) Observations on the implementation of the article

It was confirmed that, in terms of the Mutual Assistance in Criminal Matters Act, Tanzania acts on requests for confiscation by requesting States only if they have obtained a foreign forfeiture order issued by their court (section 32, MACMA). An MLA request can only be enforced if the request is supported by an enforceable, authenticated copy of a foreign forfeiture order issued by the court or other authority of the requesting State (section 32(10) of MACMA). This is different from the interim measures of freezing, seizure and restraint, which Tanzania may take in the absence of a foreign order based on a request alone, as described under paragraph 2 of article 54 above.

Although the mechanism under subparagraph 1(a) of article 55 does not seem to be available, the Tanzanian authorities, upon receipt of a request from another State, are able to proceed under subparagraph 1(b) of article 55 to submit the foreign confiscation order to the domestic authorities for enforcement.

Accordingly, Tanzania has legislatively satisfied the requirements of the provision. There have been no case examples to illustrate effective implementation.

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As stated above under Article 54 (2) (a), the Mutual Assistance in Criminal Matters Act [Cap 254 R.E 2002] sections 13 and 33 implement the article under review.

Section 13 of the Mutual Assistance in Criminal Matters Act provides for assistance to a foreign country in relation to search and seizure.

Section 33 provides for assistance in relation to search and seizure of tainted property.

Furthermore, Section 4 of the Mutual Assistance in Criminal Matters Act provides in relevant part that “for the purposes of this Act, mutual assistance in criminal matters (in respect of forfeiture of assets) shall include: ...

- (f) The forfeiture or confiscation of property in respect of offences;
- (g) The recovery of pecuniary penalties in respect of offences;
- (h) The restraint of dealings in property, or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences;
-
- (n) The location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences.”

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics provided.

(b) Observations on the implementation of the article

Reference is made to the observations under article 54(2)(a) and (b). There have been no case examples to illustrate effective implementation.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by

the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please see Sections 4, 9 and 32 of the Mutual Assistance in Criminal Matters Act, as cited above. In particular Section 9 lays out the content requirement for MLA requests.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No cases referring to this particular article.

(b) Observations on the implementation of the article

Provisions of the Mutual Assistance in Criminal Matters Act fulfil the requirements of this paragraph of the article. Section 9 of the Mutual Assistance in Criminal Matters Act provides for the content of MLA requests, and further particulars are found in Section 32.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please see the responses under article 55(1) and 55(2) herein above.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No statistics in relation to the article under review

(b) Observations on the implementation of the article

Tanzania has signed two treaties on mutual legal assistance in civil and criminal matters (not limited to the recovery of assets). The authorities confirmed during the country visit that assistance can be provided in the absence of a bilateral or multilateral treaty on the basis of reciprocity. Furthermore, the Convention may be directly applied by Tanzania, and the country has had experience using the Convention as a legal basis for international cooperation¹⁴. Assistance can also be rendered to Commonwealth countries in the absence of a treaty under the Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (Harare Scheme).

As noted under article 51, assistance under the MACMA is limited to countries designated by order of the Minister published in the Gazette as countries with which reciprocal arrangements for MLA have been made. It was explained during the country visit that no countries have been formally designated for purposes of cooperation under the MACMA. The recommendations made under article 51 are referred to.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

¹⁴ Republic v. Median Boastice Mwale, Criminal Case No. 330 of 2011 in the Resident Magistrates Court of Arusha.

Copies of the relevant legislation were provided during the course of the review.

(b) Observations on the implementation of the article

The paragraph of this article has been implemented.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has signed two treaties on mutual legal assistance in civil and criminal matters (not limited to the recovery of assets). However, this Convention can also be used as legal basis for cooperation since Tanzania has ratified it.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Tanzania has had experience in using the Convention as a legal basis for MLA:

Republic v. Median Boastice Mwale, Criminal Case No. 330 of 2011 in the Resident Magistrates Court of Arusha.

(b) Observations on the implementation of the article

Tanzania gives effect to its international obligations through special directions under the Mutual Assistance in Criminal Matters Act.

Tanzania can also apply this Convention as the legal basis for MLA.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

- Cooperation may be refused if it does not fulfil the conditions set out under section 6 of the Mutual Assistance in Criminal Matters Act (MACMA).
- The Director of Public Prosecutions (NPS) who is the competent authority may refuse and reject the request made by a foreign jurisdiction in terms of the provision of section 6 of the Mutual Assistance in Criminal Matters Act, and section 37 (5) of the Proceeds of Crime Act. The provision of section 6 states as follows:
 6. Refusal of assistance
 - (1) A request by a foreign country for assistance under this Act shall be refused if, in the opinion of the Director of Public Prosecutions:
 - (a) The request relates to the prosecution or punishment of a person for an offence that is, by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character; or
 - (b) There are reasonable grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character; or
 - (c) There are reasonable grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality or political opinions; or
 - (d) The request relates to prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Tanzania, would have constituted an offence under the military law of Tanzania but not under the ordinary criminal- law of Tanzania; or
 - (e) The granting of the request would prejudice public safety, public order, defence or the economic interests of Tanzania; or
 - (f) The request relates to the prosecution of a person for an offence in a case where the person has been acquitted or pardoned by a competent court or authority in the foreign country or has undergone the punishment provided

by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence; or

(g) Except in the case of a request under section II, the foreign country is not a country to which this Act applies.

(2) A request by a foreign country for assistance under this Act may be refused if in the opinion of the Director of Public Prosecutions:

(a) The request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Tanzania would not have constituted an offence against the law of Tanzania; or

(b) The request relates to the prosecution or punishment of a person in respect of an act or omission that, occurred, or is alleged to have occurred, outside the foreign country and a similar act or omission occurring outside Tanzania in similar circumstances would not have constituted an offence against the law of Tanzania; or

(c) The request relates to the prosecution or punishment in respect of an act or omission where, if it had occurred in Tanzania at the same time and had constituted an offence against the law of Tanzania, the person responsible could no longer be prosecuted by reason of lapse of time or any other reason; or

(d) The provision of the assistance could prejudice an investigation or proceedings in relation to a criminal matter in Tanzania; or

(e) The provision of the assistance would, or would be likely to, prejudice the safety of any person, whether in or outside Tanzania; or

(f) The provision of the assistance would impose an excessive burden on the resources of Tanzania.

Section 37 (5) of the Proceeds of Crime Act states that

37. Search and seizure of tainted property in relation to foreign offences

(5) Where property has been seized in respect of foreign serious offence and, at the end or thirty days after the day on which the property was seized-

(a) neither a foreign interdict nor a foreign forfeiture order in relation to the property has been registered in accordance with the Mutual Assistance Act; and

(b) an interim restraining order has not been issued in terms of this Act in relation to the foreign serious offence;

the Inspector-General of Police shall arrange for the property to be returned to the person from whose possession it was seized as soon as practicable after the expiry of that period.”

- Regarding the value of the property, Tanzanian laws does not set a threshold limit for the value of the asset to be forfeited. The requested State is obliged to request something of value.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No examples provided

(b) Observations on the implementation of the article

Tanzania may refuse to execute foreign requests if their execution would impose an excessive burden on the resources of Tanzania. In addition, when provisional measures are applied (search, seizure) on behalf of foreign authorities, the latter are required to provide additional documents within the prescribed terms in order to enable the relevant Tanzanian authorities to give effect to the confiscation. Otherwise, the provisional measures referred to above are lifted by the competent Tanzanian authorities.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania has encountered cases where it was required to consult with a requesting State before lifting provisional measures. The authorities in the NPS consult under these circumstances as a matter of practice.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

The case example involving Paula Susan White was referred to, where Tanzanian authorities consulted with their UK counterparts in regard to the assets subject to restraint.

(b) Observations on the implementation of the article

The authorities reported that the matter would further be addressed in legal amendments to strengthen the oversight by NPS as central authority over the MLA

process. Tanzania is encouraged to continue these efforts, including by adopting relevant Guidelines or practice directions on MLA.

It is recommended that Tanzania continue these efforts, including by adopting guidelines, procedures or practice directives in this regard.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

As described under article 31 paragraph 9 of the Convention in Tanzania's first circle assessment report at page 62, the rights of bona fide third parties in confiscations proceedings are legislatively protected under the following provisions:

Section 41, Prevention and Combating of Corruption Act (2007)

Section 16, Proceeds of Crime Act

Section 36, Proceeds of Crime Act

Section 43(3), Proceeds of Crime Act.

Additional measures are found in sections 10, 42 and 76 of POCA, as amended.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

None

(b) Observations on the implementation of the article

Tanzania's legislation appears to provide protections to bona fide parties as envisaged under this paragraph. No case examples were provided.

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 56 of the Prevention and Combating of Corruption Act of 2007 states that:

56. Disclosure of information without prior request

Without preceding provisions of this Part, a foreign state or Government may disclose such information, which might assist the Bureau in initiating or carrying out investigation, prosecution, judicial proceedings and information on proceeds of offence

Furthermore, the spontaneous transmission of information is not precluded under the Mutual Assistance in Criminal Matters Act, as per section 5:

Section 5. Act not to prevent other provision of mutual assistance

Nothing in this Act shall be construed as preventing the provision or obtaining of assistance in criminal matters under a separate agreement, arrangement or practice with another foreign state¹⁵ otherwise than as provided in this Act.

The informal network ARINEA (Asset Recovery Inter-Agency Network for Eastern Africa) allows for the sharing of information on asset recovery informally prior to official requests. This kind of arrangement accommodates such a scenario as well.

Other networks include: Tanzanian law enforcement authorities cooperate with other SADC countries through the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) and through the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO), as well as through INTERPOL. The possibility of law

¹⁵ The Written Laws (Miscellaneous Amendments) (No. 2) Act 2018

enforcement cooperation through the East African Association of Anti-Corruption Agencies (EAAACA) exists. The Financial Intelligence Unit (FIU) is a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and the Egmont Group of FIUs.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

A case example involving the spontaneous transmission of information by Tanzanian authorities through ARINSA was given. The case involved a South African national being investigated in Tanzania on drug related charges. In this case there was spontaneous collaboration through ARINSA with a view to deciding if South African or Tanzanian authorities would pursue the case.

(b) Observations on the implementation of the article

In practice Tanzanian law enforcement authorities, in particular the FIU and the police, spontaneously share information relating to the proceeds of crime with their counterparts in other countries, especially neighbouring countries.

Some examples were provided.

(c) Challenges, where applicable

Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

(d) Technical assistance needs

No assistance would be required

Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.

Article 57. Return and disposal of assets

Paragraphs 1 and 2 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Tanzania cited sections 18 and 22 of the Proceeds of Crime Act 1991, as amended by the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018. The said sections state that:

Section 18. Registered foreign forfeiture orders

(1) Where a foreign forfeiture order is registered with the High Court in terms of Part VI of the Mutual Assistance Act, this Part shall, mutatis mutandis, apply in relation to the foreign order.

(2) Any property in relation to which a foreign forfeiture order has been registered in terms of subsection (1) may be disposed of or otherwise be dealt with in accordance with any direction of the Director of Public Prosecutions or of a person authorized by the Director of Public Prosecutions in writing for that purpose.

Section 22. Assessment of pecuniary penalty

(1) For the purposes of a pecuniary penalty order against a person (hereinafter referred to as "the respondent"), the value of the benefits derived by the respondent from the commission of an offence shall be assessed by the court having regard to:

- (a) The amount of money or value of property that came into the possession or under the control of:
 - (i) The respondent; or
 - (ii) Any other person at the request or direction of the respondent; by reason of the commission of the offence; and
- (b) The value of any other benefit gained by:
 - (i) the respondent; or
 - (ii) any other person at the request or direction of the respondent; by reason of

the commission of the offence; and

- (c) If the offence consisted of the doing of an act or thing in relation to a narcotic substance:
 - (i) the market value, at the time of the offence, of a similar or substantially similar narcotic substance; and
 - (ii) the amount that was, or the range or amounts that were ordinarily paid for doing a similar or substantially similar act or thing; and
 - (d) The value of the respondent's property before and after the commission of the offence; and
 - (e) the respondent's income and expenditure before and after the offence.
- (2) In assessing the value of a benefit for the purposes of this section the court may treat as the value of the benefit the value that benefit would have had the benefit derived at the time the valuation is being made so as to have regard to any decline in the purchasing power of money between the time the benefit was arrived and the time the valuation is being made.
- (3) When an application is made for a pecuniary penalty order against a person's property in respect of a serious offence other than a serious offence-
- (a) If evidence is adduced that the value of the person's property after the commission of the offence exceeded the value of person's property before the commission of the offence, then the court shall for the purposes of subsection (1) of section 23 but subject to paragraph (b) and subsection (7), treat the value of the benefits derived by the person from the commission of the offences as being not less than the amount of the excess;
 - (b) if, following the evidence referred to in paragraph (a), the person satisfies the court that-
 - (i) the whole of the excess was due to causes unrelated to the commission, of the offence, paragraph (a) shall apply; or
 - (ii) a part of the excess was due to causes unrelated to the commission of the offence, paragraph (a) shall apply only to that part of the excess which is related to the commission of the offence.
- (4) Where an application is made for a pecuniary penalty order against a person's property in respect of a serious offence or offences-
- (a) all the property of that person at the time the application is made; and
 - (b) all the property of that person at any time-
 - (i) between the day the offence or the earliest offence, was committed and the day on which the application is made; or
 - (ii) with the period of five years immediately before the day on which the application is made;
- shall whichever is the shorter be deemed, unless the contrary is proved, to be property that came into the possession or under the control of the person by reason of the commission of the serious offence or offences.

- (5) A benefit shall not be taken into account for the purposes of this section if a pecuniary penalty has been imposed in respect of the benefit in terms of this Act or any other enactment.
- (6) For the purposes of this section, where the property of a person has vested in a trustee of the person's insolvency, the property shall be taken to continue to be the property of the person.
- (7) At the hearing of an application for a pecuniary penalty order, a police officer who has experience in the investigation of narcotic offences may testify, to the best of his information, knowledge and belief-
 - (a) as to the market value of a narcotic substance at a particular time or during a particular period;
 - (b) as to the price, or range of prices, paid at a particular period for the doing of an act or thing in relation to a narcotic substance;
 notwithstanding any law or practice relating to hearsay evidence, and the testimony shall be prima facie evidence of the matters testified to.

The aspect of return and disposal of assets is covered under sections 18, 54 and 57 of the Proceeds of Crime Act/ execution of a foreign order.

54. Registered foreign restraining orders

Where a foreign restraining order has been registered with the High Court in terms of the Mutual Assistance Act, the provisions of this Part relating to restraining orders shall, subject to sections 55 and 56 mutatis mutandis, apply in relation to registered foreign restraining orders.

57. Discharge of registered foreign pecuniary penalty

(1) Where-

- (a) a foreign restraining order is registered in the United Republic in respect of property of a person convicted of or alleged to have committed, a foreign serious offence; and
- (b) a foreign pecuniary penalty order against the person is registered in the United Republic in relation to the matter; and
- (c) the property is in the custody, or under the control, of a trustee;

the court in which the foreign pecuniary penalty order is registered may direct the trustee to pay to the United Republic an amount equal to the penalty amount out of the property.

(2) For the purposes of subsection (1) the court may-

- (a) direct the trustee to sell or otherwise dispose of such of the property under his control as the court may specify; and
- (b) authorise the trustee to execute any deed or instrument in the name of the person who owns or has an interest or right in the property.

Section 41 of the PCCA and sections 16 and 56 of POCA take care of bona fide third

parties during confiscation of the asset derived from corruption. The third bona fide purchaser shall be required to appear in court and adduce evidence.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No examples provided

(b) Observations on the implementation of the article

According to the Proceeds of Crime Act of Tanzania, proceeds derived from the commission of offences established by the Convention can be disposed of by the decision of the High Court in accordance with any direction of the Director of Public Prosecutions (NPS). The law of Tanzania also provides that the interests of bona fide third parties are taken into account when confiscating assets derived from corruption related offences. In the latter case, bona fide third parties are required to appear before the court and adduce the relevant evidence.

In light of the above, it can generally be concluded that Tanzania has implemented the provisions prescribed by paragraphs 1 and 2 of article 57 of the Convention.

Paragraph 3 of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(P) Yes, in part

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Sections 18, 22 and 57 of the Proceeds of Crime Act address this provision.

Reference is also made to Section 32A of the Mutual Assistance in Criminal Matters Act (see art. 57(5) below).

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No case example found

(b) Observations on the implementation of the article

Section 18 of POCA is clear that any property subject to a foreign forfeiture order is to be disposed of or otherwise be dealt with in accordance with the direction of the Director of Public Prosecutions (NPS). There is no provision stating that, where the relevant offence is embezzlement of public funds or the laundering of embezzled public funds a different procedure applies. Notably nothing in the law provides for the return of confiscated property to the foreign State under these circumstances. The provisions of the Mutual Assistance in Criminal Matters Act do not change this position.

While the authorities referred to the general policy of Tanzania to return proceeds to the requesting country where there is no agreement, this policy is not reflected in the applicable legislation.

This paragraph of the article has not been implemented. It is recommended that Tanzania amend its legislation to adopt measures providing for the return of proceeds to the requesting State in the case of embezzlement of public funds or of laundering of embezzled public funds, and in other circumstances in accordance with paragraph 3 of article 57.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial

proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Sections 18 and 22 of the Proceeds of Crime Act 1991 implement the provision under review. See article 57 (1) and (2) above.

In addition, section 9C of MACMA, added through the provisions of the Written Laws (Miscellaneous Amendments) (No.2) Act 2018, regulates the matter of costs.

9C(1). Ordinary costs for executing a request shall be borne by the United Republic, unless otherwise determined by United Republic and a requesting state.

(2) Where expenses of a substantial or extraordinary nature are or will be required to execute the request the requesting state shall consult in advance with the view to negotiating and agreeing on the manner in which the costs shall be borne.

(3) For the purposes of subsection (2), substantial or extraordinary expenses may include but are not limited to-

- (a) fees and reasonable expenses of expert witnesses;
- (b) any travelling costs to enable a witness to travel to the requesting country to assist in a criminal investigation or criminal proceedings;
- (c) cost of establishing and operating live video links;
- (d) costs of temporarily transferring persons in custody subject to a request under this Act;
- (e) costs incurred for the interception of electronic communication; and
- (f) costs incurred for conducting surveillance.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No case cited

(b) Observations on the implementation of the article

Section 9C of MACMA, added through the provisions of the Written Laws (Miscellaneous Amendments) (No. 2) Act 2018, provides that the ordinary costs of executing a request shall be borne by Tanzania, unless otherwise determined by Tanzania

and a requesting state, while expenses of a substantial or extraordinary nature will be negotiated through advance consultations by the requesting state.

Tanzania's legislation is in line with the provision under review.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Section 32A of the Mutual Assistance in Criminal Matters Act, as amended by virtue of Section 22 of the Written Laws (Miscellaneous Amendments) Act 2007, implements the provision under review. The section reads thus:

32A. Sharing of proceeds.

(1) The Government may dispose of property confiscated within the United Republic upon a request by a foreign authority where there is an agreement concluded between the Government of the United Republic and the Government of the requesting foreign territory.

(2) The Director of Public Prosecutions may, where he considers it appropriate either for purposes of compliance with an international arrangement to which the United Republic is committed or for the interest of courtesy among states, order the property or any part of the property forfeited or the value of that property to be given out or remitted to the requesting Government.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

No case examples

(b) Observations on the implementation of the article

The Mutual Assistance in Criminal Matters Act addresses the provision under review. Namely, based on the request of a foreign State, the Government of Tanzania may share confiscated property with that State if a relevant agreement exists between the countries

concerned. In addition, the Director of Public Prosecutions of Tanzania (NPS) may order the return of the confiscated property or its value to the requesting State to comply with an international arrangement or for the interest of courtesy.

In light of the above, it can be concluded that Tanzania's legislation is in compliance with the provision prescribed by paragraph 5 of article 57 of the Convention.

There have been no concluded asset recovery cases or examples where confiscated assets were shared with requesting foreign States, nor are there any agreements which regulate asset sharing.

Tanzania has requested technical assistance under this article as described in the annex.

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

The United Republic of Tanzania has established the Financial Intelligence Unit under Part II of the Anti-Money Laundering Act 2006 and Part IV of the Anti-Money Laundering Regulations 2007. The Financial Intelligence Unit is responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions. The wording of the law reads as follows:

4. Establishment of the Financial Intelligence Unit

- (1) There shall be established under the Ministry of Finance an Extra Ministerial Department to be known as a Financial Intelligence Unit also known by an acronym FIU.
- (2) The FIU shall be responsible for receiving, analyzing and disseminating suspicious transaction reports and other information regarding potential money laundering or terrorist financing received from the reporting persons and other sources from within and outside the United Republic.

5. Appointment of the Commissioner

(1) The President shall appoint a person who has adequate knowledge and experience in either economics, monetary affairs, finance, law, financial crimes or any other field that is beneficial to the execution of this Act, to be the Commissioner of FIU.

(2) The Commissioner shall be responsible for the general administration of the FIU.

6. Powers and duties of FIU

For the purposes of section 4, the Financial Intelligence Unit shall:

- (a) Receive and analyse reports of suspicious transactions submitted by the reporting persons pursuant to section 17;
- (b) Disseminate any such reports to the appropriate law enforcement agencies if, after having considered the report, FIU has reasonable grounds to suspect that the transaction involves money laundering or any other predicate offence;
- (c) Disseminate to the appropriate law enforcement agencies any information derived from an inspection carried out pursuant to paragraph (d), if it gives the FIU reasonable grounds to suspect that a transaction involves the proceeds of crime or financing of terrorism;
- (d) Instruct any reporting person to take such steps as may be appropriate to facilitate any inspection anticipated by the FIU;
- (e) Compile statistics and records, disseminate information within the United Republic or elsewhere, make recommendations arising out of any information received and advise the National Committee as appropriate;
- (f) In consultation with the regulatory authorities of the relevant reporting persons, issue guidelines to banks, financial institutions and other reporting persons in respect of suspicious transaction, record-keeping and reporting obligation provided for in section 16, 17, 18 and 19;
- (g) Create training, requirements and provide such training for reporting, persons, judicial officers and law enforcement officers;
- (h) Consult with any relevant person, institution or organization for the purpose of discharging its duties under this section;
- (i) Exchange information with overseas financial intelligence units and comparable bodies; and
- (j) Liaise with the relevant investment and business registration and licensing authorities fit assessing genuine investors.

7. Employees of FIU

(1) There shall be appointed such number and categories of employees of the Government or other public institutions of such qualifications as may be considered necessary to assist the Commissioner in the performance of FIU.

- (2) In appointing such employees the appointing authority shall in particular have regard to persons with experience in law, finance, customs and law enforcement,
- (3) The employees referred to under subsection (1) shall hold office for a term of five years only.
- (4) The employees of the FIU shall be subject to initial and periodical disclosure of financial position in the manner as may be prescribed under the regulations.

The FIU has prepared the following guidelines to assist reporting of suspicious transaction:

- Guidelines for Verification of Customers' Identities
- Anti-Money Laundering Guidelines for Accountants and Auditors
- Anti-Money Laundering Guidelines for Bank of Tanzania
- Anti-Money Laundering Guidelines and Counter Terrorist Financing Guidelines to Insurers
- Anti-Money Laundering Guidelines to CMSA Licensees
- Anti-Money Laundering Guidelines to Collective Investment Schemes
- www.fiu.go.tz

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

None

(b) Observations on the implementation of the article

Based on the Anti-Money Laundering Act 2006 and Part IV of the Anti-Money Laundering Regulations 2007, Tanzania established the Financial Intelligence Unit which, among other issues, is responsible for receiving, analysing and disseminating to the competent authorities reports on suspicious financial transactions. Namely, in case the relevant transaction involves money-laundering, any predicate offence, proceeds of crime or terrorism financing, the FIU forwards information about suspicious financial transaction to the law-enforcement authorities.

Statistics on the number of STR reports submitted by the FIU to the competent Tanzanian authorities and the number of cases initiated by such authorities on the basis of these reports is provided under article 14 above.

In light of the above, it can be concluded that Tanzania has legislatively implemented article 58 of the Convention.

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Is your country in compliance with this provision?

(Y) Yes

Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.

Please refer to the information under article 51.

Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.

Tanzania has entered into several bilateral treaties and arrangements, as described under article 51.

(b) Observations on the implementation of the article

The observations under article 51 and paragraph 4 of article 55 are referred to.

Annex

Tanzania's Technical assistance needs relating to chapters II and V

Chapter V (Asset Recovery):

PCCB, NPS and Ethics Secretariat

- Asset management: there is a need to develop regulations and policies, and an exchange of good practices regarding the administration of seized asset pending confiscation. Regulations are needed to address the allocation of costs, especially in terms of the length of the proceedings involved. Also, there is a need for training on how to manage assets, including immovables.
- Asset tracing/recovery and financial investigations training. PCCB has 4 officers who are qualified to serve as trainers and have been certified by the Basel Institute, and have been training other investigators and prosecutors. Asset Recovery issues are led by PCCB Headquarters and there is a need to distribute the Asset Recovery work to the regions where there is low capacity/interest in it. There is a need for further training, especially in the regions. Since 2016, 75 persons were trained in PCCB Headquarters and 25 in the region (Arusha). Funds are needed to continue with the training and to impart the aspect of AML and Asset Recovery on all criminal cases, since these are new areas for investigators. Further training of trainers would be useful.

Prosecutors, both in the NPS and PCCB

- Training on asset recovery: financial prosecutions and asset recovery.
- Trainings for prosecutors on prosecutions of financial crimes and procurement violations.
- Standard operating procedures for asset recovery investigations and prosecutions for corruption offences.

FIU

- Institutional Risk assessments: FIU and regulators (casinos, BOT, TIRA) need to be able to train supervised institutions on how to conduct risk assessments.
- Upgrade of goAML software to Enterprise edition and its customizations.
- Strategic analysis, which aims to decipher underlying patterns, trends, threats and vulnerabilities. This would enable the FIU to draw conclusions for strategic prevention of ML/TF and provide input to policy formulation and setting operational priorities.
- Specific skills for the FIU: Examining data for patterns and similar concepts; developing typologies, trends, patterns.

Chapter II (Preventive Measures)

PPRA and National Audit Office (chapter II, procurement)

- Challenge: to prevent corruption in procurement, education and capacity building of other stakeholders in the procurement field like suppliers and service providers are needed. Due to limited resources, usually PPRA trains those who pay for it.
- Monitoring and reporting on the performance of procuring entities. The number of procuring audits is limited due to understaffing of monitoring and audit staff. Of the current 530 Procuring Entities (PE) in Tanzania, PPRA audits less than 100 a year, which raises a lot of questions.
- The above may be solved by e-procurement among others: few people can reach more numbers, and reporting on the performance of PEs can be done online. E-procurement has been introduced in the Public Procurement Amendment Act but its implementation remains a problem. PPRA started a pilot of 100 PEs in the field of medical procurement, but bigger areas like construction and water are yet to be addressed by the e-procurement strategy. There is also a need for training on e-procurement to conduct more audits.
- Investigation: there is a lack of capacity to conduct investigations of procurement violations and most cases are initiated upon reports from whistleblowers.
- More training to public officials engaging in public procurement is required and funding of such training is requested.

PCCB (chapter II, prevention)

There is a shortage of resources, including financial, to continue with PCCB's work on systems analysis (prevention risk assessments and institutional analysis to identify systems weaknesses), research and providing recommendations, as well as baseline surveys (only one has been conducted). Compliance checks, as well as the capacity to develop effective public expenditure tracking surveys are needed.

Also, support for training in research, analysis and reporting of corruption risks in public sector and publication of such reports is required.

Training of staff and additional human and material resources to improve systems to receive and analyse reports of corruption submitted to PCCB are also needed.

The capacity of the Directorate of Community Education in PCCB to carry out its activities is a challenge. Below are the gaps and technical assistance needs which, if fulfilled, will enhance and increase the efficiency and performance of the Directorate.

No.	GAP	TRAINING NEED
1.	PROFESSIONAL SEMINAR PRESENTATION AND THE USE OF ICT IN COMMUNITY EDUCATION PROGRAMS	<input type="checkbox"/> Generating MS Power Point presentations for community education <input type="checkbox"/> Planning community education projects using Microsoft projects <input type="checkbox"/> The use of Microsoft excel in massive data

		<input type="checkbox"/> The use of DMS for PCCB internal communication <input type="checkbox"/> Overview of PCCB Statistical Framework
2.	PRODUCTION OF PUBLICATIONS(NEWSLETTER), RADIO AND TV PROGRAMS	<input type="checkbox"/> Recording and editing radio programs (Adobe sound booth/ audition):-Spots, radio documentary, news program, advertisement. <input type="checkbox"/> Recording and editing video programs (Adobe premiere pro/final cut pro etc.): -spots, video documentary, news program, advertisement. <input type="checkbox"/> Graphics and designing (Adobe after effects, Adobe Photoshop, Adobe InDesign) brochures, flyers, newsletter, poster, banners, advert. <input type="checkbox"/> Media selection <input type="checkbox"/> Interviewing <input type="checkbox"/> Advertisement –radio/TV/publication
3.	PRESENTATION SKILLS	<input type="checkbox"/> Presentation skills <input type="checkbox"/> Technical presentation skills <input type="checkbox"/> Public speaking <input type="checkbox"/> Power Point presentation design <input type="checkbox"/> Facilitation skills
4.	COMMUNICATION SKILLS	<input type="checkbox"/> Public Speaking skills and public relation skills
5.	REPORT WRITING SKILLS	<input type="checkbox"/> How to write good reports according to PCCB standards <input type="checkbox"/> Important issues in a report, evaluation reports, activity reports
6.	MONITORING OF COMMUNITY EDUCATION PROGRAMS	Assessment, monitoring and evaluation of public campaigns programmes
7.	NEWS WRITING AND PUBLISHING	<input type="checkbox"/> News writing skills. How to write stories for newsletter, website and newspaper. <input type="checkbox"/> Interviewing <input type="checkbox"/> Media selection
8.	PROFESSIONAL CUSTOMER CARE TRAINING	<input type="checkbox"/> Telephone skills: inbound and outbound

		<input type="checkbox"/> Customer service <input type="checkbox"/> Customer communication <input type="checkbox"/> Customer experience, attitude, interpersonal skills, <input type="checkbox"/> Customer acquisition <input type="checkbox"/> Adaptability <input type="checkbox"/> Call center: live support and chat
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Implementation of NACSAP III (chapter II, strategies)

- This is a focus area to help integrity committees function from villages to MDAs. Work started in 2017, there are limited funds for the committees to reach out to institutions.
- Technology – equipment for forensic training and evidence gathering in the PCCB would be helpful. Tools like mobile forensic tools and software.

Public Service (chapter II)

- DPSM has carried out ethics compliance monitoring in institutions to see if employers comply with applicable procedures. Also DPSM conducted training to institutions on complaint handling mechanisms. There is a lack of resources to reach a wider group, together with non-state actors to train public servants.
- DPSM uses an ethics and social marketing strategy to reach public servants, which uses the media and trains them. This could be developed.
- Legislative assistance on legal drafting to prepare regulations for the Code of Ethics and amendment to the current Code.
- Assistance in preparing a national ethics policy.
- Develop Ethics Secretariat staff by providing training in the area of verification analysis of asset disclosures.
- Assistance in building institutional capacities to provide training to public officials
- Research/data-gathering and analysis assistance with regard to establishing appropriate data storage and data collection, training on data analysis, increase capacity to conduct studies /survey.